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European Broadcasting Union July 1960

sound and television broadcasting news general and legal

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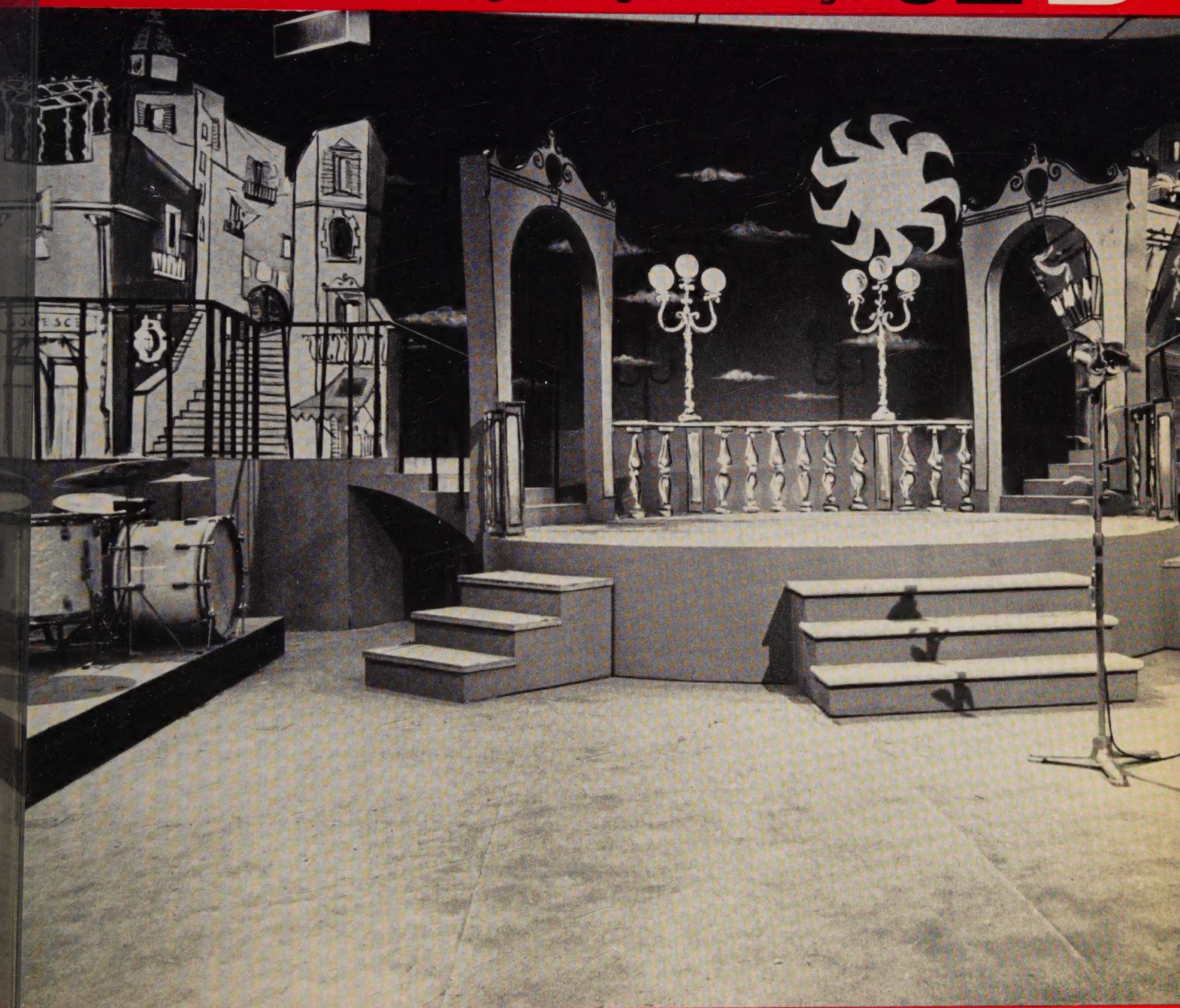

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Italian television and its design department

by Ezio Polloni, Head of RAI Television Design

In the Design Department of the Italian television service, as in all the comparable departments of the European television services, it is possible to discern features, approaches and trends which reflect a somewhat extensive range of works of varying importance and the various imperatives of a school of design that is the handmaiden of visual entertainment.

It would seem that in a discussion of the aspects of Italian television design the most rewarding method is to trace the development and the evolution of its particular features and characteristics, to examine its past and present substance and thus to attempt to outline its prospects for the future.

It is not always an easy matter to distinguish and define the trends in design, for one is liable to see only the outward aspects. After all, no " innovations " can be so strikingly marked that they will not fit in with a school of design that has proved its worth. It therefore seems to my mind a good idea to divide the subject up into a number of fundamental groups, in which it may be possible to distinguish the various trends and the special characteristics of Italian television design.

Tragedy, comedy, variety or a programme of light music will suffice to establish in a sense the " approach " adopted by a design department.

I think it is necessary, however, to separate the various types, because it is clear that they cannot all be staged with the same kind of setting. The designer would be guilty of superficiality if he did not have regard to the individual features and the mood of the work he is staging.

The designers on the staff of the Italian television service started working for television without any special knowledge of the characteristics or indeed the requirements of television design. Not surprisingly, our designers, coming as they did from academies of art, architectural colleges and in some cases from schools of theatrical design, found themselves confronted with new problems which at the time appeared impossible of solution. It was only by dint of a period of apprenticeship and after quite a few mistakes that they managed to evolve a style and a compromise method.

The over-all growth of television has of course had its influence on the temperament of the designers, and has

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made it possible to cultivate individual talents, which in turn has led to more personalised and more expressive styling.

The quest for accuracy in style through careful study of what has been done in the past has produced some of the greatest and most substantial successes of television design. This is the course which has been followed, and it is one that, if we continue to follow it, holds out promise of ever greater progress. The taste for atmosphere has become widespread and general; the public—or at least the Italian public—seem to appreciate careful reconstruction, and even to demand it. In addition to watching the action that is being related, the public observes the background against which the narrative is set. Hence the need for stylistic exactitude and sympathetic interpretation of the texts.

In his article in the last special number of the *Review* on design [1], Richard Levin, Head of BBC Television Design, has said just about everything that could be said about the way the designer works. In a picture rich in observations drawn from long experience he has not overlooked any detail of the designer's work. It is only natural, however, that his careful observations are above all a reflection of the outlook and the sentiments of the English people. Indeed, Levin says that to obtain outstanding results in design, it is necessary that the designers be selected to concentrate on the particular type of work for which they have a bent, the ultimate aim being to have a specialised designer for each single type of show. I do not wish to criticise this view, which in my opinion may be taken to be a method of work.

In our organisation, however, the special characteristics of Italian artists have been borne in mind, and the emphasis has been laid not so much on out-and-out

[1] *EBU Review* No. 58 B

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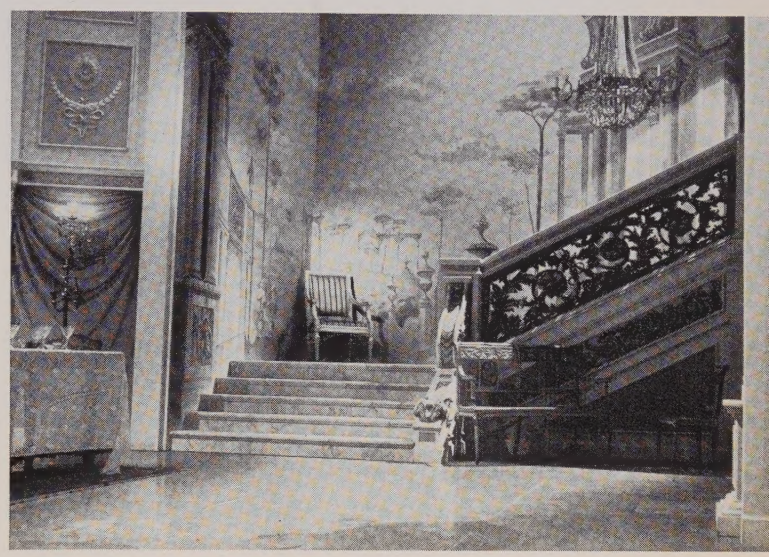

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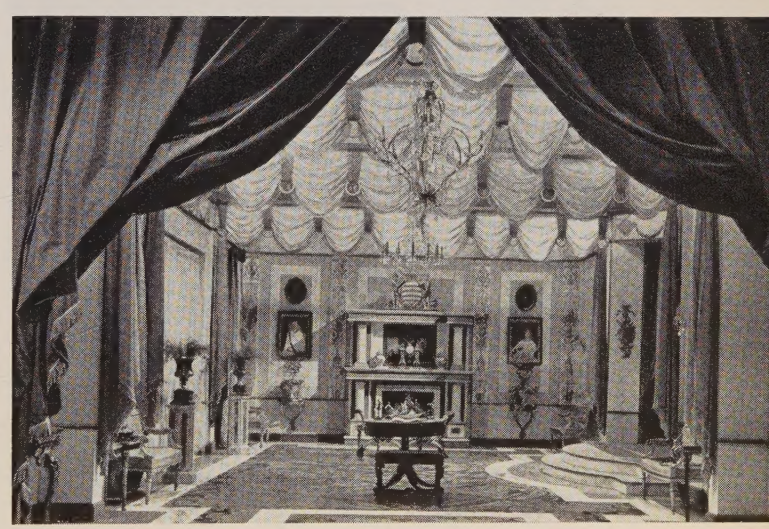

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1. **"The Vicar of Wakefield" (Oliver Goldsmith). Designer: Emilio Voglino.** Naturalism and contrived realism leave on this setting the mark of stylistic precision in stage furnishing, which however is not incompatible with several intriguing possible camera angles.

2. **"Casa Paterna" (E. Suderman). Designer: Maurizio Mammi.** The same naturalism and realism is apparent in this setting, together with a romantic aspect which helps to define it more fully.

3. **"Le Roman d'un jeune homme pauvre" (Octave Feuillet). Designer: Gianni Villa.** An excellent example of lavish stage dressing. The staircase is conceived on a grandiose scale, in keeping with the general surroundings.

4. **"Rabagas" (V. Sardou). Designer: Filippo Corradi Cervi.** This setting is designed in relation to reality in keeping with the tone of the comedy. The atmosphere suggests surroundings of wealth and luxury.

5. **"Fathers and Sons" (Ivan Turgeniev). Designer: Sergio Palmieri.** A design composition with a Classical-Revival flavour, which well sets off the nineteenth-century atmosphere of the production.

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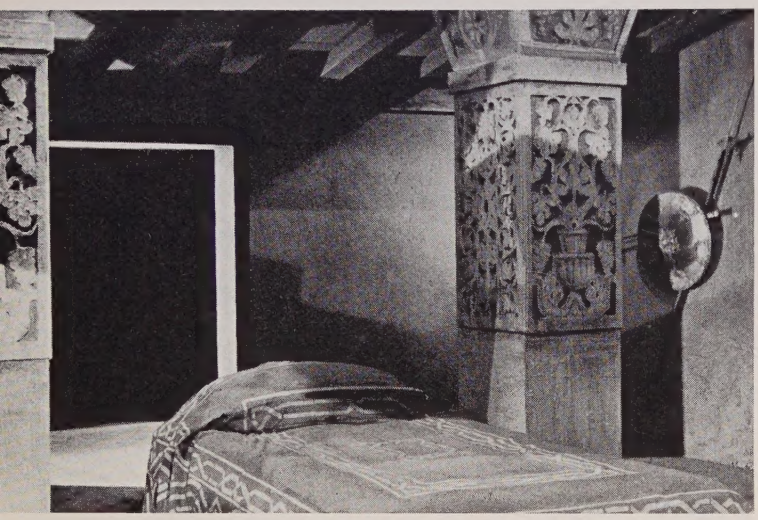

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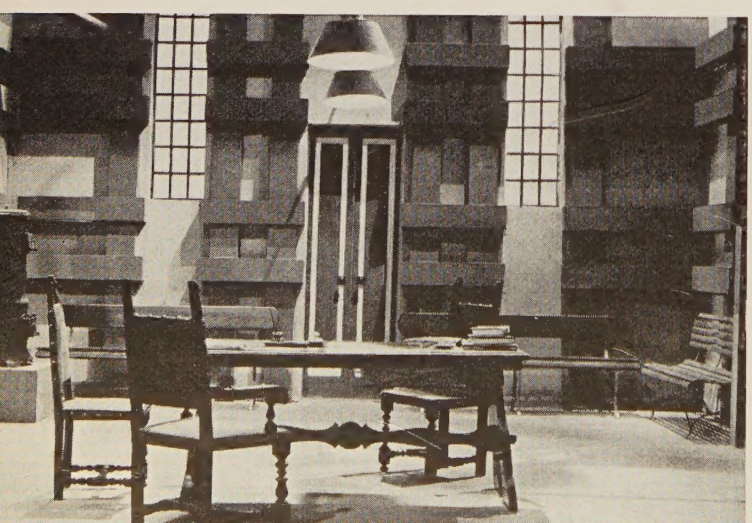
specialisation of the designer for a single type of programme, but rather on each designer cultivating a particular style, whether it be a naturalistic, a symbolic or an abstract one. An approach of this kind, which requires to be taken further, allows designers to be used in more varied ways and gives constant stimulus to their inventiveness, so that they can bring a well-defined style to the staging of a tragedy or an opera or to the settings for a light music or variety programme with equal ease. Looking back over everything we have done, we are at once struck and gratified by the results that have been obtained by our method. The quantity and quality of the " types " that have been staged with lavishness or, to say the least, on a considerable scale have enabled us to try out the artistic qualities of our designers, with varying results, thus showing that what we might call the " Italian way " is a method which, in our opinion, admittedly limits the number of designers on the staff, but nevertheless gives definite artistic results and economies in operations that should not be overlooked.

When it comes to staging a work, there is little choice but to conform to one of the major schools of design, namely the realistic school, the analytic or " stylised " school and the abstract school. It is obvious that each of these forms demands and requires a very considerable effort on the part of the designer. In order to do well in the two last-mentioned types of design, the designer must always remember that it is not easy to get the public to accept a mere simplification of scenery; in order to succeed in these forms of design what is needed is imagination, as well as enough taste to present something that is really out of the ordinary, both as regards ideas and the quality of the work. These are the conditions which we require of our designers—the conditions which, on account of our peculiarly Italian eclectic approach, are the motive forces, so to speak, which give that extra impetus to the designer's inventiveness, impelling him to go out for particularly telling aesthetic effects and thus achieve far more valuable results that in most cases meet with the public's approval.

It is clear that even when working on the eclectic method it is always desirable, when choosing a designer for a particular programme, to give thought to the talents of the artist best qualified to produce positive results.

From the design point of view, drama programmes for the most part bear the imprint of contrived realism for what might be called the aesthetic and the practical



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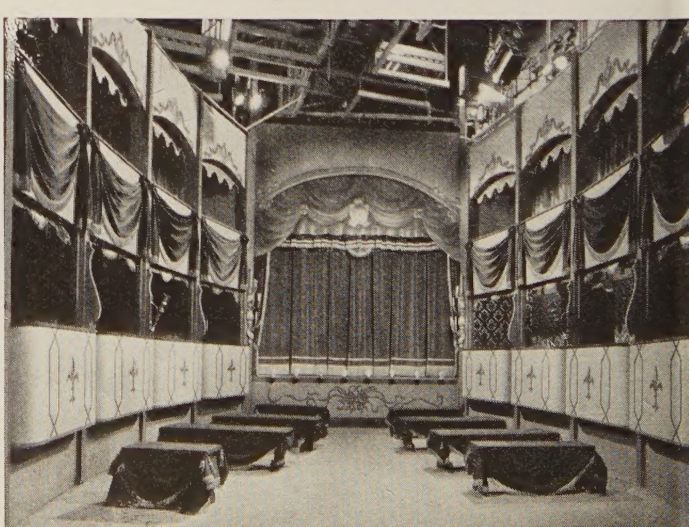

reasons. In drama productions, which are generally taken from the stock repertory, it is usually possible to cut costs by using prefabricated properties such as staircases, doors, windows, balustrades and so forth. This, as may well be imagined, avoids the need for building new elements, which might well make it impossible to get the settings ready in the brief time available for the preparation of scenery and would necessarily lead to prohibitive daily costs for the production of studio scenery.

It is obvious that the use of stock scenery moulds and to some extent limits the design thought in drama production. However, the reasons set forth above do not always condition design, and where for some particular purpose it is desired to cut down on the use of stock pieces, the designer has a free hand within reasonable limits to project his thinking in any direction, which also makes it possible to break the monotony.

Another duty of the television designer when preparing his sketches is to put away the temptations that may occur to his imagination when thinking in terms of the theatre. Television design must forget the theatre and its scenic unity consisting of stage, actors, properties, lighting, which allows the public to accept even the most far-fetched stylised and abstract designing. Television, especially in the case of the drama productions in the everyday repertory, will not permit one to stray too far from realism, inasmuch as it is well-nigh impossible to make the very real facial expression of actors in close-up fit in with an abstract setting, a fact which demonstrates that such a marriage is virtually impossible to achieve.

Much indeed remains to be done in the field of television design in general, however, and it will be well to stimulate attempts to create new forms and new schools of design. This will be more easy to accomplish when works written specially for television contain the makings of a poetic fantasy that gives the designer scope for creating settings and symbolic detail which will give the production an atmosphere that is out of the ordinary.

The designing of sets for television is a task made up of a number of different problems, and for this reason it is one that calls for long experience coupled with technical skill. Good settings where sufficient intelligent thought has not been given to the practical side in terms of camera movement and good exploitation of the broadcast inevitably become a sterile architectural exer-

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6. "Ruy Blas" (Victor Hugo). Designer: Ludovico Muratori. An example of television design with little architectural construction, but which gave significant and convincing opportunities for expressive acting when the production went on the air.

7. "Otello" (opera, G. Verdi). Designer: Mariano Mercuri. The scene provides an example of architectural stylisation by means of decorative detail limited to a few surfaces.

8. "Carmen" (opera, Georges Bizet). Designer: Piero Zuffi. The setting conveys a typical Spanish lower-class environment.

9. "Frana alla Scalo Nord" (V. Betti). Designer: Bruno Salerno. Here the setting has been planned with an imaginary architecture which gives the scene the dramatic atmosphere required by the text.

10. "Le Capitaine Fracasse" (Théophile Gautier). Designer: Carlo Cesarini. The setting shown here was in reality achieved on a very small stage area, but in the broadcast it gave an effect of unlimited space, thanks to the deliberate opening-out of the non-existent fourth wall.

11. "Saul" (Vittorio Alfieri). Designer: Mariano Mercuri. An outdoor setting in which the foreground detail of the seat and the canopy extends the scenic action with the full view of the background. The play of lighting and plastic elements combine to give a suggestion of space where none exists. The realisation of settings like this one and the scenery for "Maria Suart" (fig. 16) demand a careful and accurate knowledge of the text and its period.

12. "Quando Amor Comanda" (Tiberio Fiorilli, alias Scaramuccia). Designer: Emilio Voglino. A set which, through its realistic architectural elements brought together in a fanciful spirit, gave the director a great variety of camera shots to choose from.

13. "Le Divine" (variety show), script by Valeri and Vittorio Caprioli. Designer: Lucio Lucentini. The set represents a mere impression and does not attempt to convey any exact and complete definition of the ideas prompted by a script for a light programme.

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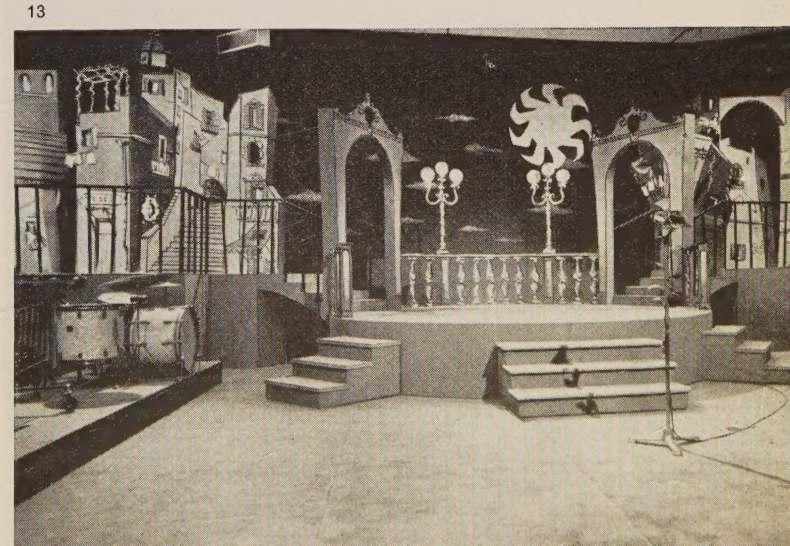

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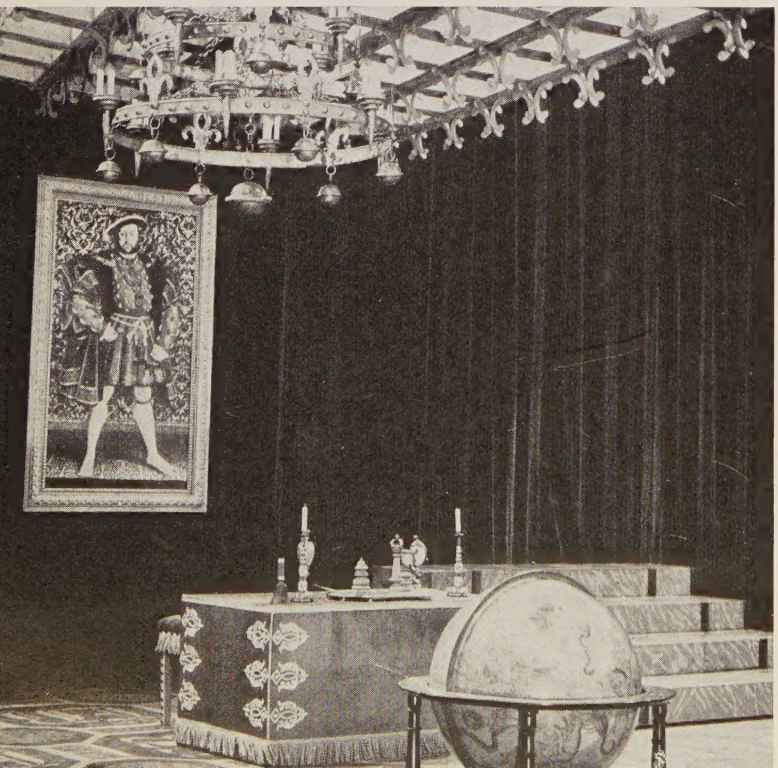

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cise. From this it will be seen that the television designer, far more than the theatrical designer, must express himself not only in free and at the same time genuine forms, but also through the technical medium. Only thus will the television broadcast be truly functional and have an inner equilibrium of its own.

In conclusion, the television designer must increasingly strive in his planning towards an idiom which differs from that of everyday life, cope courageously with the most heterogeneous methods and techniques, and constantly propose new solutions. This, in our view, is the road we must follow. Attempts, experiments and research will, we are sure, tend to confirm more and more the very considerable difference between scenery for the theatre and settings for television.

But if the search for a new idiom and new departures is necessary for the drama and comedy designer, it is even more so for variety or revue programmes, as has been stated above. Designers assigned to work on programmes of this type must make ever greater demands on their imagination; television is a voracious medium, inevitably swallowing up people and ideas. Hence the need for continual novelty and innovation. This difficult field is the one which makes the greatest demands on the imagination and the fantasy, and therefore this type of programme, in our opinion, calls for the greatest intellectual resources.

In international comparisons, at least up to the present, the Italian television service has always held its own successfully by the use of the methods which, as stated above, are present in our productions.

The stimulus given to improvement in terms of both quality and thinking is bound to lead to better ideas in future design. If the results are what we hope they will be, a new and better defined idiom in television design will emerge.

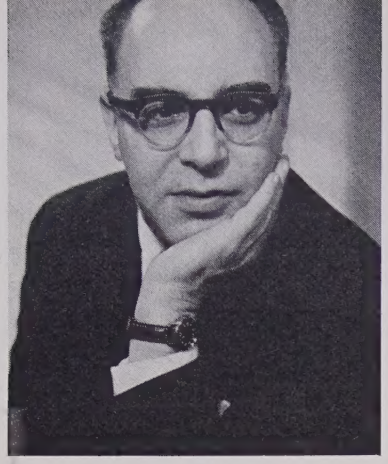
14. **" Le Dialogue des Carmélites " (G. Bernanos). Designer: Orlando di Collalto.** An example of architectural realism; the intentionally gloomy setting is made dramatic by lighting.

15. **" Manon " (opera, G. Puccini). Designer: Luciano Damiani.** An excellent example of realistic and imaginative design in the same set. The realistic element blends well with the graphic design of the background.

16. **" Maria Stuart " (F. Schiller). Designer: Veniero Colasanti.** This striking setting is the result of a powerful three-dimensional interpretation in which suggestive detail heightens the dramatic nature of the text.

Bruno Del Sante

Bruno Del Sante



Orchestral music on television

by Lionel Salter, M.A., Mus. B., L.R.A.M.
Head of Music Productions, BBC Television

The presentation of operas, operettas and ballets on the screen raises more than enough problems to keep an international congress, such as at Salzburg last August, busy arguing for a week. Yet in some ways they are simple compared with concert music, which, instead of being applied to an intrinsically visual form of expression —acting or dancing—stands on its own as an abstract art of sound. How, then, can this be translated to the screen? Since music is invisible, there seem to be only three possibilities: (1) to show the notation of the music, (2) to show the performers making the music, or (3) to show images conjured up by, or associable with, the music.

Looking at the notes

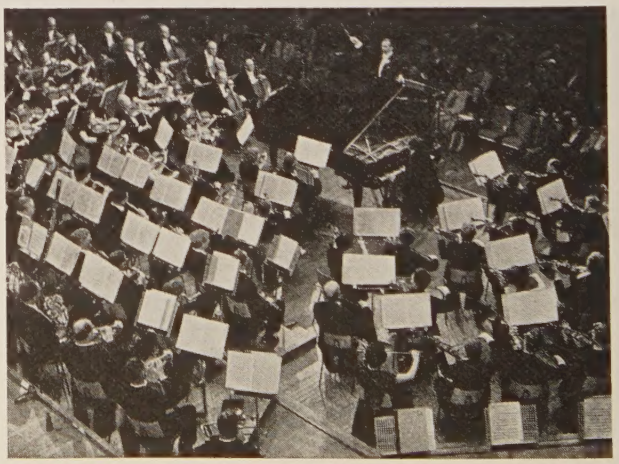
Except for educational purposes, the first is barely applicable to televison, since the notes would be too small to be read comfortably for any length of time on the screen, and anyway the bulk of the audience is unlikely to be able to read music at all. An occasional glimpse of a score, particularly in a reproduction of the composer's manuscript, may however be interesting as an introduction to a work or movement of a work.

Looking at the players

Then should we look at the performers? There are still many people who stoutly maintain that music is for the ear alone and that they have no wish to see it being made. This may be true for a minority: indeed, an even more extreme position is taken by a select few who declare that their enjoyment of a work is marred by the imperfections of human performance and that they therefore prefer to read the score in solitude and hear the music only in their imagination. But in general, given the chance of a good seat in a hall where it was possible to see and hear, say, Heifetz and the Vienna Philharmonic playing a concerto, how many people would be such purists as to insist on listening to a radio relay instead? Why is it that at any piano recital, as all concert-promoters will confirm, the left-hand side of the hall sells out before the right? It is true, also, that people untrained in listening often find their attention wandering after a while, but watching considerably helps their concentration.

Some criticisms are merely frivolous—" Who wants to look at a bald-headed bassoonist? " or " I don't want to see the horns emptying out their instruments "—but

1. **Camera positions for concert-hall relays.** An effective left frontal shot.

2. **Camera positions for concert-hall relays.** A shot from back left of platform useful for view of conductor. Note height of angles.

even people with a serious-minded objection to looking at a music programme probably fail to realize that they have been completely conditioned by the circumstances of the last fifty years. Until the advent first of the gramophone and then of the radio, it was physically impossible to listen to music without seeing the performers too. What television, therefore, is doing is to restore a lost sense of sight.

Reveries and realities

Music, however magical its effect, does not stem from some supernatural source whose sound reaches us through a mysterious little box: it is the product of a number of human skills—the composer's and the executants'—and only the naïvest of romantics really feel that the art is sullied by the sight of reality. Stravinsky, in his *Chronicles of my Life*, is caustic on these dreamy listeners: "I have always had a horror", he writes, " of listening to music with my eyes shut, with nothing for them to do. The sight of the gestures and movements of the various parts of the body producing the music is fundamentally necessary if it is to be grasped in all its fullness... Obviously one frequently prefers to turn away one's eyes, or even close them, when the superfluity of the players' gesticulations prevents the concentration of one's faculties of hearing. But if the players' movements are evoked solely by the exigencies of the music... why not follow with the eye such movements as those of the drummer, the violinist or the trombonist, which facilitate one's auditory perceptions? As a matter of fact, those who maintain that they only enjoy music to the full with their eyes shut do not hear better than when they have them open, but the absence of visual distractions enables them to abandon themselves to the reveries induced by the lullaby of its sounds. And that is really what they prefer to the music itself."

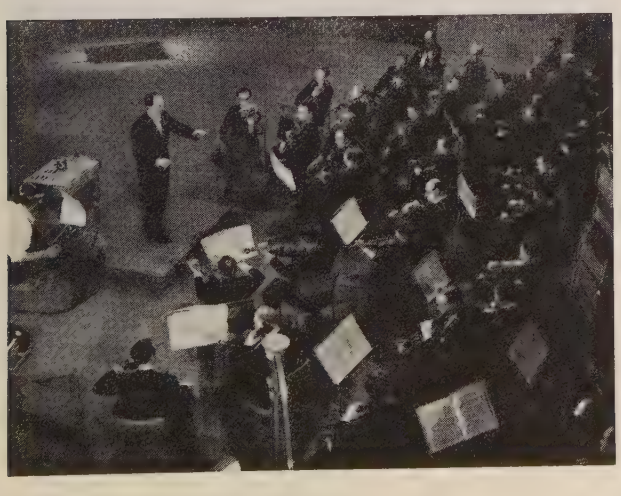
The BBC has, in fact, transmitted orchestral concerts almost from the outset of its Television Service in 1936, and the extent to which these are appreciated by the public is seen in the numerous demands received for more concerts and by the size of the audience which watches them—in Britain two million or so (i. e. anything from three to six times the size of the audience for similar concerts on sound radio)—which incidentally includes professional musicians, at one time perhaps the most vehemently opposed of all to televised concerts. So much, then, for the tenet that music, unlike Victorian children, should be heard but not seen. But this does imply that the right things should be seen—and at the right moment; and if this is so, it will be found that vision makes a positive contribution in illuminating the composer's thoughts.

Technical considerations

It must never be forgotten by the television director that the music is the main concern, and any visual image which detracts from the viewer's concentration on the music is an error. A prime consideration must be good quality sound: this is usually easier to obtain in a relay from a concert-hall than when an orchestra broadcasts in a television studio, where the acoustic is likelier to be drier. If a studio is used, however, care should be taken not only that the transmitted sound be improved by adding reverberation etc., but also that the studio itself be treated, so that the performers can feel some " reaction " and do not find their tone being impoverished.

In setting up camera positions, provision should be made not only for an effective coverage of the orchestra as a whole but also for closer shots from different angles of sections of the orchestra or of individual instruments. In concert-hall relays it is sometimes not possible to obtain other than frontal positions, with perhaps a camera at the back of the platform which can be trained on the conductor himself; but in the studio it is valuable to have in addition accessible positions at the sides of the orchestra. (Violins and violas should be shown from

3. **Lateral shot** of the violin sections taken from the wrong side.



4. **Lateral shot** of the violin sections taken from the right side.

5. **Use of side positions in the studio** enabling cameras to concentrate on instruments not always easily accessible.

6. **Use of side positions in the studio** enabling cameras to concentrate on instruments not always easily accessible.

their right, as otherwise the camera will see only the backs of the instruments.) Shots taken at the orchestra's own level are rarely satisfactory, since the players tend to disappear from sight behind their stands, and the viewer does not want to see an array of backs of music stands with glimpses of the players' hair-lines above them. Orchestral players tend to be very conservative, and seem to take an almost perverse delight in having their stands as high as possible, usually with some such justification as that once offered me by a well-known first violin: " We're here to play the music, not be bloomin' matinée idols." This outlook is obviously misconceived, in the circumstances of television. Even in laterally straight shots along, say, a row of violins, the camera level is more effective if above the players.

In a relay from a concert-hall, where the cameras by force of circumstance are usually at some distance from the platform, there is no point in trying to modify the conventional lay-out of an orchestra; but in the studio (always assuming space permits) less orthodox seating positions may be devised which allow travelling cameras more access to certain sections of the orchestra. Such experiments in seating, which can offer scope to the imaginative director, must not, however, be allowed to interfere with the players' feeling of artistic cohesion.

Camera treatment

And so we come to the camera treatment itself. This cannot be merely improvised, with the cameras ranging more or less at random over the orchestra: the camera director must know the score almost as thoroughly as the conductor, and must so plan and arrange his shots that every one is meaningful and helps to bring out the musical thought. The temptation to offer pictures, however effective, without adequate musical motivation must be ruthlessly resisted. It is generally best to begin a performance with an establishing shot of the whole orchestra: thereafter shots will be dictated by the course the music takes. The camera acts as a kind of substitute for the human eye, and the eye of an informed musical listener automatically travels towards the instruments carrying the main thematic interest and towards new entries of importance. This does certainly not mean, however, that the director should attempt to compose a new picture for every phrase, or appear to be " showing off his ability to read the score ". Too restless camera work, whether from moving cameras or from cutting and mixing, cannot but militate against concentration on the music: panning shots should have a musical justification for the change of view, and it must be remembered that the effect of tracking in is the equivalent of a crescendo or increase of intensity.

Shots should be changed only at the ends of musical phrases and *never* in mid-phrase, which would be equivalent to the vision contradicting the sound. If these changes are made with real precision, that is to say at the exact moment of starting a phrase (neither a moment too soon nor—even worse—a moment too late), they can be almost imperceptible to the viewer. Even so, there should be fewer shot-changes in slow, tranquil tempi than in fast ones, particularly in agitated movements, such as, for example, the Infernal Dance in Stravinsky's *The Firebird*, where a fast rhythm of cutting is in accord with the musical atmosphere.

It goes without saying that the camera crew must be trained to be exact at locating players: nothing is more irritating than watching a camera groping its way towards its target. For his part, the director must not allow cameras to dwell on instruments after they have ceased playing significant passages, and must ensure that correct lenses are used, e. g. not a close-up on one clarinet if two clarinets are playing together, nor a wide shot of the horn section for a solo horn passage. To watch the conductor occasionally is entirely legitimate, and indeed valuable;

but to cut away to reactions in the audience only distracts concentration from the music.

Cuts, mixes and superimpositions

It is generally considered better and more satisfying (if done with precision) to cut from camera to camera rather than mix, but mixes may be employed when phrases overlap, or in, say, impressionist or modern works where the music is exceptionally fluid. The effect of a cut after a series of mixes comes almost as a slight shock; this therefore needs special care, so that it is reserved for a sforzando or some particularly striking entry.

An occupational temptation of television directors is to compose "arty" pictures with instruments superimposed on others: since the effect of these is often to draw attention away from the music to the camera work, these should be employed very sparingly, perhaps best in music built over an ostinato such as Ravel's *Bolero*, Holst's *Mars* or the Battle Scene in Strauss's *Heldenleben*. In such cases it is effective and acceptable to hold the ostinato instrument in the background while the appropriate other sections of the orchestra are superimposed. Such treatment, in the last analysis, depends of course on the taste and musical understanding of the director.

Visual and aural values

An unavoidable complication is that all sections of the orchestra are not equal in visual potential. Instruments like the strings, the trombones, percussion and, to a less extent, the harp, where the players indulge in considerable movement, can be watched more easily and for longer periods than the woodwind and brass, whose players appear almost immobile. (Indeed, the untrained eye often finds it difficult to select from a wind group the player who has a solo.) Yet it is precisely the wind and brass who provide most of the solo entries in orchestral works.

It is obviously pointless to see an instrument in close-up unless its sound can be easily distinguished, and if the shot has been properly motivated this will always be the case. In any event, it would clearly be impossible, as well as entirely inartistic, continually to adjust the sound balance in order to bring into better aural focus an instrument selected by the camera, though here the curious additive power of eye and ear becomes valuable, since the sight of the instrument appears to make its sound more distinguishable.

Choice of works

Since the camera's main role in shooting an orchestra should be to add to the music by clarifying and underlining the musical thought, it will be seen that music calling continuously on the full resources of the orchestra, i. e. scored predominantly for tutti, can scarcely be aided by the camera's commentary. Works of large-scale symphonic thought do not lend themselves easily to camera treatment, and are considerably less effective on television than those relying on orchestral coloration: in other words, a Brahms symphony is intractable television material, Rimsky-Korsakov's *Caprice Espagnol* admirable.

In the BBC's considerable experience of televising orchestral concerts, it has been found that the forms which lend themselves best to the medium are variations, where the interest is constantly moving from section to section; episodic tone-poems such as *Till Eulenspiegel;* and the concerto, where the interest alternates between two main protagonists, the soloist and the orchestra.

7. **Concertos.** Note height of camera position.
8. **Concertos.** Note height of camera position.

7

8

The fascination of watching at close quarters a great soloist will be found sufficient to warrant holding a picture for quite a considerable time without camera movement; but attention should be focussed on his playing, not merely on his face, and the camera should avoid stressing any physical effect of his exertions: with artists who grimace or perspire freely it is best to keep a distance. In photographing a violin, too, though a large close-up of the player's face on the instrument may be legitimately used at moments, it is more satisfying generally to include the bow and the fingers on the strings as well. As far as possible, avoid looking at a pianist from the bass end (left) of the keyboard. The position of the soloist in relation to the orchestra should always be established before seeing him alone.

Extra-musical images

There remains the third way of treating orchestral music, mentioned at the start of this article—that of associating with it extra-musical images. This is the most controversial of procedures, which calls for the nicest artistic judgment. No great harm is done to light music if dancing, scenic film or even cartoon is added to it, though the effect should be recognized as reducing the music to an accompaniment or background. Nothing, however, irritates true music-lovers more than the imposition of extraneous representational pictures on serious works which are already artistically complete in themselves. Any attempt at pictorial " interpretation " of an abstract piece of music (e. g. a symphony) is misconceived and unmusical, unless perhaps in the case of visual " abstracts " (such as were used in early film days by Fischinger), which can now be produced electronically—but which must exactly match the rhythm of the musical phrasing. People who pictorialise music to themselves are rarely able to concentrate on the actual musical thought, and will on future hearings of the work tend always to associate with it (even, indeed, mentally to substitute for it) images not intended by the composer.

Only in " programme " music, i. e. that which has explicit pictorial or literary associations, is it sometimes permissible to draw on extra-musical images. Mussorgsky's *Pictures from an Exhibition* could properly be accompanied by Hartmann's pictures which inspired them (if they could all be found !), but works with vaguer programmes, such as Tchaikovsky's *Romeo and Juliet* or Liszt's *Mazeppa*, pose problems of subjective interpretation of the composer's ideas. Specific literary programmes, such as in Dukas's *L'Apprenti Sorcier* or Berlioz's *Symphonie Fantastique*, are rare and in any case would demand very heavy film and/or studio resources to depict them adequately. It is generally felt, too, that, in the almost photographically representational scores of Strauss (e. g. *Don Quixote*), the orchestra already sufficiently suggests the " action " without further additions, which would be merely gilding the lily.

It would be possible to devise acceptable " mood " film from stock to go with music of less specific programme, like Respighi's *Pines of Rome* or Borodin's *In the Steppes of Central Asia*, provided that the length of the picture sequences matched that of the musical phrases; yet one must be wary of transgressing the composer's intentions, since Mendelssohn deprecated any attempt at pictorialising the *Fingal's Cave* overture, Beethoven in a famous phrase insisted that his " Pastoral " Symphony was " mehr Ausdruck der Empfindung als Malerei ", and Debussy, by reprinting Hokusai's print of a wave on the score of *La Mer*, revealed that he was not thinking in realistic images, despite the apparent pictorial representation in the music. The provision of visuals to any considerable extent, however—let alone on the scale necessary for a worthy treatment of a work like Smetana's *Vltava*—lies more in the province of musical films than of television; and that is another subject, and a big one.

9. **Too low a camera** gives an unsatisfactory picture in which players and instruments disappear behind music stands.

10. **Special layouts** afford opportunities for more adventurous camera work.

Organisation of the supra-regional responsibilities of broadcasting in the Federal Republic of Germany*

by Dr. Hans Brack, Cologne

The controversy over a reorganisation of the broadcasting services has flickered up again in the Federal Republic of Germany, and one of the main points at issue is the arrangements to be made concerning the " supra-regional " commitments of broadcasting. I refer in particular to television, short-wave transmissions for overseas listeners, the long-wave transmissions to Germany and Europe, the financial allocations, and joint technical research and development. The purpose of this article is to depict the past evolution in this matter of the " supra-regional " tasks of broadcasting in Germany, to describe the present practice and to outline the aims of the future reorganisation.

Broadcasting organisations of the " Länder "

After the second World War broadcasting services in West Germany were built up on a federal pattern. In succession to the transmitters of the Occupation Forces public broadcasting corporations were founded in 1948. In the American Zone there was a separate corporation for each *Land*—the Bayerischer Rundfunk in Munich, the Hessischer Rundfunk in Frankfurt-am-Main, the Süddeutscher Rundfunk in Stuttgart and Radio Bremen in the city of that name. In the British Zone the Nordwestdeutscher Rundfunk (NWDR) was set up in Hamburg to serve the Länder of North Rhine/Westphalia, Lower Saxony, Schleswig-Holstein and the Free and Hanseatic City of Hamburg, while in the French Zone the Südwestfunk in Baden-Baden catered for the Länder of Würtemberg-Hohenzollern, Baden and the Rhineland Palatinate. These broadcasting organisations varied very considerably in size; the NWDR, for instance, comprised about half of the radio audience in the whole of West Germany.

In the subsequent course of events it can be said that by and large the South German principle of one corporation per Land prevailed over the North German idea of the big corporation covering several Länder. Sender Freies Berlin was created by a Land enactment of 12th November 1953, the Westdeutscher Rundfunk by a similar enactment of 25th May 1954, the Norddeutscher Rundfunk by a treaty between the Länder of Lower Saxony, Schleswig-Holstein and the Free and Hanseatic City of Hamburg dated 16th February 1955 and the Saarländischer Rundfunk by a Land enactment of 27th November 1956. At the present time there are nine public broadcasting corporations in the 11 Länder in the Federal Republic of Germany and the Nord- und Westdeutscher Rundfunkverband for television on the territory of the NDR and the WDR. All are governed by Land statutory provisions, and as a rule the organs of these institutions are the Broadcasting Council, the Board of Directors and the Director-General.

Consortium of the Land broadcasting institutions *(Arbeitsgemeinschaft der Landesrundfunkanstalten)*

The broadcasting institutions recognised from the very beginning that the federal-type organisation of broadcasting should not lead to a situation in which the supra-regional responsibilities of broadcasting were neglected or tasks which it would be more expedient to settle on a uniform basis were handled in different ways from one institution to another.

They therefore began, at first in an *ad hoc* manner, to co-operate and consult with one another on such matters as programme exchanges and on technical and legal issues (e.g. frequency questions and negotiations with copyright collecting societies, etc.).

In the years since the establishment of the broadcasting service in 1923 or thereabouts, German broadcasters had acquired a certain amount of experience as to the subjects which—given the existence of a number of radio companies—could best be dealt with jointly, and indeed the nine regional transmitting companies which were founded in the years 1923 and 1924 as non-official entities (mostly limited liability companies) banded together shortly after their inception into the " Reichsfunkverband " or Reich Radio Association. This association, which was not incorporated, had as its main objects to represent the common interests of broadcasting and the broadcasting companies in dealings with the authorities and the public at large. The duties of the Reichsfunkverband and other joint tasks were taken over on 1st March 1926 by the " Reichsrundfunkgesellschaft m.b.H." (Reich Broadcasting Company Ltd.), which remained in existence (although with a change in competence) until 1945.

In the Federal Republic the independence of the broadcasting service is a declared object in all of the relevant statutes. This had to be borne in mind by the institutions

* This article appears here with the kind permission of the Bredow-Institut of Hamburg University

when they set about putting their co-operation on an organised footing in 1950. Of the various possible types of organisation their choice fell on that of a consortium (Arbeitsgemeinschaft) in the form of a civil (i.e. non-profit-making) company. Any closer legal link, possibly in a corporate body, would have made it difficult to assign responsibilities to the consortium, as the broadcasting laws would not have permitted this as they stood. Accordingly the broadcasting organisations decided on 10th June 1950 in Bremen to set up the " Arbeitsgemeinschaft der öffentlich-rechtlichen Rundfunkanstalten der Bundesrepublik Deutschland " (ARD), the constituent assembly of which was held in Munich on 5th August 1950.

The six founder members of the ARD (the Bayerischer Rundfunk, Hessischer Rundfunk, Nordwestdeutscher Rundfunk, Radio Bremen, Süddeutscher Rundfunk and Südwestfunk) have since been joined by the organisations proceeding from the NWDR, namely Sender Freies Berlin on 14th September 1954, Norddeutscher Rundfunk and Westdeutscher Rundfunk (in place of the NWDR) on 10th February 1956 and the Saarländischer Rundfunk on 21st May 1959.

To keep the new organisation as simple as possible, to avoid setting up an additional secretariat and also to keep it in close touch with the work in the broadcasting organisations no independent administrative offices were set up; instead each member of the consortium takes turns at providing the secretariat and acting as the official spokesman of the group. The chairman of the consortium is the Director-General of the organisation discharging these duties for the time being. At first the administration changed hands in rotation every six months, the change being made annually after 1953. Since 21st May 1959 the administrative member has been elected, and may be re-elected for a second annual term.

Certain individual organisations are given authority to deal with various continuing affairs, and they retain this authority independently of the rotation of the administration. This means that there are people in the various broadcasting organisations who have been dealing with specific questions of interest to the consortium for years, thus making it possible to avoid duplication of effort.

The ARD's most important resolutions are adopted at the general meetings. These " main meetings " are also attended by the chairmen of the supervisory bodies (i.e. the broadcasting councils and boards of directors) of the individual companies. This system has proved its worth, as it gives some assurance that resolutions approved jointly with the chairmen of these bodies will subsequently be ratified by the supervisory organs of the individual companies, as far as this is required under the existing broadcasting statutes.

Objects of the ARD

In order to be as comprehensive and active as possible the ARD deliberately refrained from spelling out its objects in detail in the constitution, merely stating that the aims of the consortium were " to further the common interests of the broadcasting organisations " and " to deal with common programme problems and common questions of a legal, technical and operational nature " (cf. Article 2 of the constitution). This includes the collective representation of the broadcasting organisations as towards the Federal Government and foreign organisations, together with programme exchanges, contracts with authors, publishers, performers and their associations, with the record industry, the news services, etc. and making comments on draft legislation with a bearing on broadcasting. It also includes consideration of frequency questions, the extension of the transmitter network, and so on. In addition there are a number of " supra-regional " tasks, which it is proposed to discuss in detail below.

Undoubtedly the most important of these supra-regional tasks for the broadcasting organisations is the joint operation of the television service in the Federal Republic. The ARD's television service, with its nearly 4 million viewers (as of 1st May 1960) has made satisfactory headway. The operation of a joint short-wave programme known as the " Deutsche Welle " which is radiated from the " Heinrich Hertz " transmitters in Jülich is of particular importance in catering to the overseas listeners interested in the Federal Republic. The communal long-wave operation in Hamburg unfortunately suffers from the lack of a suitable wave-length, which for international reasons it proved impossible to obtain. In the technical field of radio scientific research and development work is carried on jointly by the broadcasting corporations in the Institute for Radio Technology, Ltd. In the European Broadcasting Union the ARD represents the German broadcasting institutions as a whole. Mention should also be made of the broadcasting organisations' financial equalisation treaty on the joint financing of communal activities.

Activities of the Federal Government

Before considering these " supra-regional " activities in detail mention should be made of developments which have influenced the manner in which these activities have been carried out to a not inconsiderable extent. I refer to the efforts to bring these combined activities under regulation, either by Federal legislation or by treaty between the Confederation and the Länder.

Shortly after the founding of the Federal Republic in 1949 Bonn turned its attention to broadcasting problems. The outcome of this work was the tabling of a Bill " respecting the execution of joint duties in the field of broadcasting " of 18th March 1953 (BT-Drucksache Nr. 4198), which however met with a somewhat lukewarm reception. The dissolution of Parliament caused the Bill to lapse and it was not reintroduced in the next legislative period.

Instead of this, intensive negotiations were carried on between the Federal Government and the Länder to

settle the basis of broadcasting by mutual agreement. These negotiations led in January 1955 to the *Referentenentwurf* (departmental draft) of a comprehensive treaty system. During the subsequent discussions, however, there arose some difficulties which prevented the conclusion of the corresponding treaties during the second Parliament.

The 1959 Bill

The negotiations between the Federal Government and the Länder, which were continued during the third legislative period of the Bundestag, took a new turn with the publication of a new Federal Broadcasting Bill on 30th September 1959.

Under this Bill three broadcasting organisations are to be set up under Federal law, viz. the " Deutsche Welle " with headquarters in Cologne for short wave services to overseas listeners (cf. sections 13-16), the " Deutschlandfunk " for broadcasting to the whole of Germany and other European countries (on long and medium wavelengths) with headquarters in Berlin (cf. sections 17-20), and the " Deutschland-Fernsehen " for television broadcasts to Germany with headquarters in Frankfurt (cf. sections 21-25). These three institutions will form the " Deutscher Rundfunkverband ", the German Broadcasting Association, a public corporation " for the furtherance of joint responsibilities " (cf. sections 32-39). This association, which will have a Managing Director appointed by the Federal President and a Board of Directors of nine members, will, according to section 33, perform tasks which correspond broadly to those of the ARD. In addition the association will finance its members to the extent that this is done from licence revenue. The idea is that the " Deutschland-Fernsehen " television service will be financed primarily from advertising income. The association will have a staff of its own, and it can be taken that it is intended to play a central role in broadcasting affairs. In connection with this must be noted the Broadcasting Equalisation Fund managed by the Post Office, into which all licence revenue will flow after deduction of the Post Office's share.

Now that the Federal Government has divulged its present plans through the publication of this Bill it is possible and instructive to examine the current organisation of the supra-regional tasks side by side with the Government's suggestions.

Financial equalisation

Existing Arrangements. Of course the financing of the joint responsibilities is a matter of prime importance in any solution of the problem. Even in the first version of the ARD's constitution it was specified that these tasks would be financed by the institutions in proportion to their numbers of listeners. This was based on the idea that the institutions ought to contribute to the financing in keeping with their financial strength, expressed in terms of their licence receipts. It was subsequently expressly agreed that " the necessary financial resources for the implementation of the consortium's decisions shall be provided by the individual members in proportion to their financial strength ".

The financial equalisation contract of 10th December 1958, which reformulated the previously existing procedure, provides that the activities to be financed as joint responsibilities shall be determined annually by the Financial Equalisation Committee of the ARD, by a majority vote up to 18 million DM and for any greater amounts by unanimous decision. The funds required for this purpose are put up by all organisations having more than one million listeners or 500,000 viewers. The contributions of the participating organisations are scaled according to their financial strength; the following quotas were adopted for 1960/61: Westdeutscher Rundfunk 52.43%, Norddeutscher Rundfunk 21.35%, Bayerischer Rundfunk 14.80%, Südwestfunk 5.48%, Hessischer Rundfunk 3.13% and Süddeutscher Rundfunk 2.81%.

This arrangement was buttressed by an agreement of 24th June 1959 between all the Länder of the Bundesrepublik, whereby the financial equalisation scheme is to finance the common tasks and ensure to each broadcasting organisation the wherewithal to produce and transmit a suitable programme.

The 1959 Bill. The Bill contains a plan to institute a Broadcasting Equalisation Fund as a special account with the German Post Office, to which will accrue 80% of the licence revenue, after the Post Office's 20% share has been deducted. Of these resources 10% will go to the Deutscher Rundfunkverband (German Broadcasting Association), 20% will be distributed in equal shares and 60% will be allocated to the Land broadcasting organisations in proportion to their present licence receipts, while out of the remaining 10% each organisation will get a territorial supplement of DM 100 for every square kilometre of its territorial coverage and the Berlin broadcasting institution will receive a special annual grant of DM 10 million. The amount left over, which as of 1st January 1960 was estimated at some 9.8 million Deutsche Mark, is to be used, inter alia, to finance activities which can be carried on by the broadcasting organisations in common. Any moneys in excess of these requirements are to be used to promote scientific cultural activities. The allocations are made by the Board of Governors of the Federal Equalisation Fund (one representative from each of the public statutory broadcasting institutions) under the chairmanship of a representative of the German Post Office, who, however, possesses no right to vote. It is provided in section 56 that the Federal Government will report every third year to the Bundestag on the adequacy or otherwise of the licence fees and the " suitability of the arrangements for their distribution ", which can then be altered if necessary by Federal statute.

Television

Existing Arrangements. The NWDR began broadcasting a daily television programme at Christmas 1952,

and as the Post Office built up its micro-wave network it was joined by the programmes of the other broadcasting organisations. The co-operation between the broadcasting organisations was put on an organised footing by the television contract of 27th March 1953, and on 1st November 1954 the joint programme of all broadcasting organisations was officially inaugurated. The Joint Programme is composed of contributions from the individual organisations, and in this way the cultural and other achievements of the separate regions of Germany come to be seen on the programme. The extent of the contributions is roughly determined by (but not proportional to) the size of the organisation; the television newsreel and the news are provided for all institutions from Hamburg. A programme committee, known as the " Standing Programme Conference " since 1954, decides by a majority vote on the layout and composition of the programmes, and the chairman of this Programme Conference, whose responsibility it is to put the Joint Programme together with the help of the members, has as time went on been given an increasing measure of authority. The work of the Standing Programme Conference is supplemented by the " Television Advisory Council ", composed of members of the supervisory boards of all broadcasting institutions. The operation of the television contract and the consideration of experience gained in the application of this contract is entrusted to a special " Television Commission " of the ARD.

The Länder of the Federal Republic also began to take an interest in television. Under the Convention of 24th June 1959 " respecting the Co-ordination of the First Television Programme " the broadcasting institutions are empowered and required to produce a television programme jointly. For this purpose they are required to appoint a Programme Director for a term of at least two years, to be elected by a two-thirds majority vote of the broadcasting organisations. This Programme Director works out the programme in regular conferences with the Directors-General, and if agreement is not achieved the Programme Director has power to impose requirements on the organisations. He is authorised to constitute a programme reserve, and a Programme Advisory Council may be set up to assist him. Details are left to agreement between the broadcasting organisations.

The 1959 Bill. The " Deutschland-Fernsehen " provided for in this Bill is in fact the framework for a second television programme, the coverage of which will correspond to that of the First Television Programme run as as a supra-regional programme by the ARD.

In substance the Bill attaches importance to the creation of competition for the broadcasting organisations' television service and the provision of sufficient television advertising time for business interests. For this reason the " Deutschland-Fernsehen " authority is to place the production of television broadcasting primarily in the hands of private companies.

The organs of this authority are to be the Advisory Council, of 15 members, five appointed by the Federal Government, five by the Länder governments, one each by the Protestant Church, the Catholic Church and the Central Jewish Council, and another one each by the Confederation of German Employers' Associations and the German Trade Union Federation. The Board of Directors consists of eleven members, appointed by the Advisory Council. The Director-General will be appointed by the Federal President from a list of nominations put forward by the Advisory Council. The Director-General will conduct the business of the authority, including the programming.

The ARD has been working on a second television programme for some considerable time. Without prejudice to the possibility of increasing the time available for television advertising, it considers it desirable that the second programme, like the first, should be produced by the existing broadcasting organisations, if only to ensure that the viewer has the choice of two mutually contrasting programmes.

Overseas short-wave broadcasting

Existing Arrangements. The Land broadcasting organisations cater for listeners to the German radio in the extra-European countries by means of short-wave transmissions, and they finance these broadcasts out of their share of the licence revenue. The contract concluded on 27th March 1953 between the members of the ARD on the organisation of the short-wave service makes provison under an agreement with the Federal Government for an advisory council consisting of one representative of the Federal Government, the chairman of the ARD for the time being and a third impartial personality.

The programme of this " Deutsche Welle " service is composed essentially of a news service giving an objective picture of the more important events in Germany and in the world, political broadcasts in which the German conception of important political questions is expounded and explained, and a cultural programme to which all the Land broadcasting organisations contribute their share. This direct participation of all the regional institutions gives the programme the necessary colour, and at the same time cuts down the cost of operating the programme.

The 1959 Bill. Pursuant to the 1959 Bill this radio service is to be taken over by a " Deutsche Welle " institution incorporated under Federal law. This public corporation contemplated in the Bill " for the production of broadcast transmissions for overseas listeners " is to have the following organs: an Advisory Council of five members appointed by the Federal Government, five by the Länder governments and one member each by the Protestant Church, the Catholic Church and the Central Jewish Council; the Board of Directors with five members nominated by the Advisory Council and the

Director-General, who will be appointed by the Federal President on the basis of a list of candidates submitted by the Board of Directors.

Long-wave broadcasting

Under the Copenhagen Frequency Allocation Plan of 1948 the Federal Republic does not possess a wavelength which will reach the whole of Germany and the neighbouring European States. Since 1953 long-wave programmes have been radiated on a frequency of 151 kc/s on a limited timetable and with limited strength.

The organisation of the " Deutschlandfunk " provided for in the 1959 Bill is broadly similar to that described above for the " Deutsche Welle ", the Federal short-wave broadcasting concern.

Sound library

The broadcasting organisations in the Federal Republic have undertaken to catalogue or collect all recordings " whose historical, artistic or scientific value may justify their preservation and utilisation for the purposes of art, science, research, education and teaching ". To this end they set up the " Sound Archives of the German Radio " in Frankfurt-am-Main on 2nd December 1952. For this collective undertaking they chose the form of a civil foundation or trust possessing legal capacity, in order to make the archives independent of the membership by an autonomous endowment fund.

The 1959 Bill provides for the establishment of archives attached to the German Broadcasting Association.

Technical development and research

Shortly after the war two research and development institutes in the field of radio technology were set up. These were the NWDR's " Zentraltechnik " in Hamburg, and the " Rundfunktechnische Institut " in Nuremberg.

These technical resources were amalgamated on 9th August 1956 into the Institute for Radio Technology. For this joint venture the legal form of a limited liability company was chosen, in order to give the Institute an economic and organisational independence of its own. The shareholders are the members of the ARD, who finance the Institute under the ARD financial equalisation agreement to the tune of some 3.2 million DM annually.

Under the 1959 Bill technical research and development will be the responsibility of the German Broadcasting Association.

Television

Synthesis of the 28th " Semaine Sociale Universitaire " of the Solvay Institute of Sociology *

by Raymond Ravar, Secretary-General of the Film and Cinema Seminary of the Solvay Institute of Sociology

My presence here on this rostrum at the close of these proceedings throws me back, paradoxically, upon my experience as a television man, rather than as a lecturer.

The first, it is true, is of longer duration than the second but, more important, I find myself back again in a situation familiar to all television journalists.

Throughout the whole of this week, we have had a succession of lectures and discussions—some very long, others very short, some highly concentrated, and all with their varying shades of opinion—from leading personalities who gave us the benefits of their rich experience and brought to bear upon our theme objectives placed at vastly different points, some advancing deliberately and insidiously, like a slow travelling shot, towards the heart of the problem, others transfixing it directly, secure in the knowledge of the power of the revealing shock-picture.

The film of this week's proceedings—" the event to be covered " in journalistic parlance—has scarcely had time to register in our minds, and already we must choose what seems best from among the thousands of pictures, concepts, ideas and words that have followed one another in rapid succession. We must create unity out of diversity, distinguish the broad outline, and give expression to the fundamental principles. You expect a well-ordered speech, one that hangs together, a continuum of significant pictures that will give you the essence, as it were, of all that has gone on here this

* Text of the speech delivered by the Secretary of *Semaine Sociale* summing up the events of the week. In addition to his other functions, Mr. Ravar is also a television producer.

week, with some of the contrast and a little of the flavour of events.

If we carry a little farther the parallel with the work of the television journalist who, in a few hours or even a few minutes, is expected to prepare an edited synthesis of a multitude of films and despatches, we get right to the heart of the problem; indeed, we might launch out at this point into another final description of the comparative effects of verbal and televised reporting, about which little has been said this week.

I shall of course do no such thing, for that would introduce a new source of trouble—and reflection—into our deliberations, and sufficient unto the 'week' is the 'task' thereof.

This task is what we are now going to consider, in order to discover how we have accomplished it.

* * *

Professor Doucy, who is the Director of the Solvay Institute of Sociology, opened the proceedings, exhorting us to give our close attention and make a searching study of the problems.

He said we were going to be brought face to face with that social group whose importance in contemporary life continues to grow: the masses.

Our close attention was never in doubt; we can take full credit for that. And you deserve praise, Ladies and Gentlemen: much careful study has been done in the course of our deliberations.

Mr. Chairman, you said in your opening speech: "I think it advisable, I think it necessary, to put you on your guard against the facile tendency to consider as solved at the conclusion of this *Semaine* a problem we are primarily concerned with stating the terms of".

We had no idea how right you were to be so cautious. Today your remark has lost its purpose. We know—we have learned in the course of this *Semaine*—that we can hope for nothing better than to state accurately the terms of this complex, polyvalent, many-sided, dynamic problem called television.

"We are condemned to caution", said Professor Jacques Kayser, no matter whether we set television against the Press or the cinema, or compare it to the theatre and to radio, or estimate its role in education, culture and the arts, its potentialities as a medium of mass communication, and its function in personal relations; or whether we analyse its status and that of its producers, or simply—if one may say so—the relation in which the viewer stands to his television screen. This relation, as Bernard Blin puts it, which engenders common consequences, but not in common.

To what extent have we achieved the objectives we had set ourselves?

"Nothing but an analysis of the part played by television at the various levels at which it operates in the lives of individuals and societies can guide us", said Professor Doucy in his inaugural speech.

What have we learned about these effects that is convincing from a *scientific* point of view—in other words, that derives from an aggregrate of systematic observations conducted in accordance with recognisable methods?

"We exaggerate the power of this new method of communication, we idealise the past, and we consider the public—in this case the children—as an undifferentiated mass succumbing to the tyranny of television". This is what a too hasty examination often brings us to.

Dr. Himmelweit revealed to us the conclusions of an investigation carried out over a period of four years among a group of two thousand children of 10, 11, 13 and 14 years of age, in four English towns [1].

The study was concerned with children *before* and *after* the introduction of television. Its object was to get a systematic appreciation of the impact of television on children according to age, sex, intelligence and family background. Two main effects were distinguished: stimulation effects and displacement effects, two sectors of investigation which complement each other.

It appeared that the time devoted to television did not depend on the social level of the parents, but rather on the psychological level: parental example proved to be the main essential. Two factors that can supplant this influence, however, are the intelligence and personality of the child himself. The higher the child's intelligence, the less time he spends on television; the fewer friends and social activities he has, the greater the part of his free time he devotes to television. Television emerges, therefore, as a symptom much more than a cause of withdrawal in the child.

Observations made with regard to displacement effects made it possible to arrive at the principle of functional similarity or superiority: whereas the very young child substitutes television for the cinema because it provides him in effect with a cinema in his own home, the adolescent with a television set at home goes more often to the cinema, prompted by the need for social occasions which television cannot satisfy.

Functional similarity operates in a selective manner. Television can exercise a sort of appeal, but only when it can be considered to answer the same needs in the same way or more effectively. In the case of reading, television after a certain time reduces the amount of reading of children's papers and comics, but it has the effect of raising the maturity of children's tastes and widening the range of their reading. It is untrue to say that television makes children physically passive. It is equally untrue to say that it makes them mentally

[1] *Television and the Child*, by H. T. Himmelweit, A. Oppenheim and P. Vince (Nuffield Foundation, Oxford University Press, 1958). (Reviewed in *EBU Review* No. 54 B, pages 32 and 33).

passive: adolescents are much less easily satisfied with what television offers them than adults.

Dr. Himmelweit gave us her conclusions with regard to the cumulative impact of the use of television by children. She showed that the values or views presented make a stronger impact if they recur frequently, if they are presented in dramatic form, or if they are transmitted to viewers who have not already been supplied with a set of values by their immediate environment. Adolescents are more affected by them than children of 10 or 11.

In concluding, Dr. Himmelweit said that there was no point in allowing ourselves to become hypnotised, as the general public had done, by one aspect of the impact of television on the child's personality: the incidence of aggressiveness and violence. The problem should be expanded to embrace all the models presented by television, and the medium would do well to offer a greater diversity. Now that the first investigations have shown that the danger is less great than was believed, the television industry should promote studies of these models.

If the only merit of this enquiry had been the fact that it made the child-destroying monster, television, lose some of its terror, it would not have been in vain.

The big bad wolf is not so frightening after all, and its hypnotic powers are not all charged with hidden malice! As experience has already shown, the malice disappears when it ceases to be hidden.

Among the children studied, television levelled up, not down: the least gifted benefited most and the most intelligent did not lose anything by it.

The effects, the role and the function of television can only be explained and defined within a wider framework, that of the mass media in general, or wider still, that of public information and communication. There is in fact an interchange between all the techniques of communication, and permanent interaction of the one upon the other: television upon books, books upon newspapers, newspapers upon radio ... and every other possible combination. This fundamental concept was to recur in most of the papers read throughout the week.

Professor Kayser dealt with the question of information—after distinguishing between information, instruction and entertainment—as provided by the Press and by television. He established the points of similarity and divergence between the two techniques of communication.

The analogous nature of their mission and the fact that both are addressed to the individual do not exclude the differences between them. The printed Press and television both distort absolute truth, but this can be corrected more easily by readers in the case of the Press. Television is more satisfactory for the study in depth of a situation and for the broadcast of a specified or foreseeable event, but on the other hand its powers are curbed when the event predominates. The public's desire for news is less adequately served by television than by the newspaper, which is less selective and remains in the reader's possession. In concluding, however, Professor Kayser denied that there was any truth in the belief that one medium triumphed over the other. On the contrary, in most countries there are probably many examples of discord or harmony between the two media which are of an essentially fluid and transitory nature.

Mr. Recht, Head of the Information and Education Services of Belgian Television (French-language service) examined the medium as a mass information technique. He acknowledged that the news broadcast on television was characterised by its " truth, objectivity and impartiality " and to these he added " originality, rapidity, brevity and variety ".

As a mass communication medium, television, in his view, ought " not only to serve truth but at the same time make its contribution to good citizenship, at the national level today, at the European tomorrow and throughout the world the day after ".

A distinguished campaigner, Mr. Sergio Pugliese, Television Director of the RAI, did us the honour of putting us in the place of the General Staff to whom he had come to report.

This report was to deal with television drama; it told us simply about television, and first about information.

" On television, there is not a single abstract truth that cannot be interpreted ", said Mr. Pugliese. He showed us the different ways in which the objective fact (strikers' demonstration) becomes fiction. We knew already that the filmed report of the arrival in Paris of Mr. K. differed on the RTF and on Belgian television according to the background music used. We knew too that television had made McCarthy, but that it had also been his undoing.

The demonstration organised by Mr. Kammans, Director of Belgian Television (French-language service), and the technical services of the INR enabled us to appreciate television's natural gifts for using the plain facts to put on a show or a performance, or to give us an interpretation. Indeed, we passed from Princess Paola's tears to the world of Magritte, to that of science (hand operation), of the Italian Teddy-boys, of Lillo, the dying village, and to the declarations of the Congo inhabitants in Belgium.

All the speakers—and first and foremost Mr. Bal—applied themselves to the task of analysing the phenomenon of the " live " broadcast which creates simultaneousness with the event it is reporting by the instantaneity of its transmission.

Mr. Wangermee showed us that this, together with the sociological conditions of reception, was one of the profound similarities between radio and television.

After a study of the problem that was as searching as the Director of the Institute had asked for, Mr. Wan-

germee traced the paths he thought radio and television should follow, thereby determining a number of additional standards of appreciation for our subject, television.

" And so ", said Mr. Wangermee, " radio which seems by its very nature destined first and foremost for passive listening tends, in order to justify its existence, to increase the centres of interest; it hopes to encourage active minority audiences and to play a part in the spread of culture. In contrast, television, which is endowed from the start with educational potentialities that are infinitely more powerful, runs the risk of being forced by the very favour it enjoys to cater slavishly to the tastes of the majority. This pressure exerted by the majority also makes television try to exercise supreme control over the other techniques of mass communication, to the detriment of radio in particular.

And yet what could be more natural than that television should be content to use its own particular qualities which give it considerable authority as it is; that it should stop trying to provide uninterrupted programmes throughout the whole day; that it should leave the permanent *décor* to sound radio, and, since it knows how to command attention, that it should endeavour to hold it on privileged occasions.

Radio is expected, when it provides the permanent sound *décor* that many desire, to introduce artistic fashions and requirements into everyday life, and at the same time to know how to set the imagination free, to widen man's experience and encourage his aspirations; to supply with all possible speed and accuracy the news from every corner of the world which modern man requires if he is to play a full part in the life of his day and age ".

At the end of a survey of television programmes under the heading of " reportages, documentation, fiction ", Mr. Pugliese introduced us to the " *tête-à-tête* between the viewer and the actor ", as he describes the television theatre, where the narrative has to be more concentrated, more intimate and more elaborate than in the live theatre. Mr. Pugliese gave us a glimpse of the ideal televised theatre " which could be set up spontaneously and extemporaneously after the manner of a reportage " and contain a mixture of reportage, documentation and fiction. But that is a long way off, for research in the field of artistic expression is a slow and difficult process.

We had been made sharply aware of this when we watched the examples of programmes proposed by Mr. Kammans to illustrate television's contribution to the efforts being made in the field of artistic expression [1].

[1] The programme presented by the Director of Belgian Television (French-language service) included extracts from: *Master Peter's Puppet Show*, opera by Manuel de Falla (INR production); *Britannicus*, beginning of Act V (RTF production); two sequences from *Gestes et Chansons*, a variety broadcast produced by the INR: a poem illustrated by Philippe Soupault and a song illustrated by Léo Ferré; the complete version of *Haut Voltage*, the ballet by Maurice Béjart, music by Marius Constant and Pierre Henri (INR production).

And we lived at first hand the daily adventure of searching for that " form of expression as yet unclassified " which is that of the small screen.

In passing, Mr. Pugliese added something more to Pierre Bellemare's recital of his vast experience in the field of televised games: " It is because each person brings his own private world with him, reveals and discloses his own sincerity in its most complete and most tangible form, that quiz programmes are such a resounding success ".

This was in fact what Pierre Bellemare had meant when he gave us a sort of vade-mecum in miniature of the perfect quiz-master, and defined the famous element of suspense. He had also drawn our attention to the basic phenomenon of the viewer identifying himself with the personality appearing on his television screen.

Another case of identification is that of the announcer with the programmes for which she is in no way responsible, but which are nevertheless attributed to her.

Jeanine Lambotte, " first lady " of Belgian television, told us about this very agreeably while she tried to define with great perspicacity, through the medium of the camera lens focused upon her, the characteristics of this admiring and affectionate public, to which we belong.

This preoccupation with the public was encountered again in Mr. Nic Bal, who spoke to us about television's role as a popularising agent in the field of science.

Instantaneity, intimate contact, identification: Mr. Nic Bal, as we have said, was first to mention them.

" Perhaps ", Mr. Bal concluded after an analysis of the main science programmes throughout the world, " adequate technical facilities, powers and financial means will make it possible for television to create a popular university that would make the democratisation of education a reality ".

" That frank and critical faith which is the characteristic of those who make television " was found in its highest form in Mr. d'Arcy. Taking the concrete reality, Eurovision, as his starting point — that nervous system, as it were, of Western European groups—Mr. d'Arcy projected us into the future. He gave us a brief glimpse of the history of human communications, what it had been and what it would become: an ever more powerful factor of symbiosis between individuals and nations.

The most surprising thing of all was that in listening to Mr. d'Arcy we felt we were plunging into a universe that existed only in science fiction. But we were mistaken: it was our own universe.

From the very moment the question of television was broached on a world-wide scale, a new factor was forced upon us—that of relativity. The nature of the messages, the techniques for creating and broadcasting them, the conditions of reception, the problem of the homogeneity of listening groups—all these had to be placed within a well-defined geographical, historical and socio-cultural framework.

This had all been made clear to us at the beginning of the week by Mr. Terrou. The status of television undertakings depends on the part they play in the communities from which they have sprung. It is impossible to determine theoretically what is the ideal model status. What is important is that there should be a balanced representation of social forces in the direction of television's affairs, ensuring the supremacy of television's feature of general interest, which Mr. Terrou demonstrated so brilliantly to us.

We realised again how relative our standards of appreciation were when we listened to Mr. Cassirer. Educational television throughout the world is inscribed not only in the doctrine of entertainment/education, education/instruction, but also, and above all, in the distinction between younger and older countries, underdeveloped and economically powerful countries.

Mr. Cassirer made special reference to the anxiety of television in the under-developed countries to break through the passiveness which is generally attributed to it. The success of group reception in these countries is a highly encouraging positive factor.

Another of Mr. Cassirer's findings links up with an observation repeated several times in this report: television is not a medium that could ever be self-sufficient. Educational of necessity, this time we see it joining the group of mass communication media. We see it, too, assuming a role in teaching that grows daily more important and precise [1]. Experimentation in the use of television to overlap the other instructional techniques is very far advanced in the United States and its success is now assured.

As you see, the film of this *Semaine* is both varied and complex.

While the variety springs from the differences in temperament of the distinguished personalities who have been talking to us about television, from their authority, and from the multiplicity of opinions involved by their specialisation, I am tempted to think that the impression of complexity we get is characteristic of this profoundly innovating social phenomenon which television has become and which, if the truth be told, we don't quite know how to deal with.

So that at the close of these meetings the final question that springs to mind is in fact how should we study television. It was left to the Director of the RTF Radio and Television Research Centre, Mr. Bernard Blin, to supply the answer.

Should we consider this study in the context of a sociological survey of leisure pursuits or a science of information and communication ? We are not in a position to judge at the close of this *Semaine* whether we would be taking too narrow a view if we placed the study of television in the context of a sociological survey of leisure pursuits, as Mr. Dumazedier, who was to discuss this subject, was detained in Paris [1].

Mr. Blin, for his part, sketched in boldly the framework of a study of television which for obvious reasons cannot be reproduced in detail here. He recalled the four levels at which it would seem to be indispensable to conduct the investigation:

1. the factors of social control;
2. the content;
3. the audience;
4. the effects (short term, long term).

The social control analysis should deal mainly with:

(a) the formal constitution of the undertaking (freedom and limits to freedom);

(b) the factors attracting workers to television;

(c) human relationships among the television staff;

(d) the social structure of the creative and productive cadres of television (problems of socio-cultural references, coefficient of expansibility, and motivation of the creative function of these cadres).

The content analysis would concern itself with making a balanced *résumé* of programmes and a differentiation of their content as regards semantic control (which is addressed to the intelligence) and aesthetic content (which is addressed to an area other than the rational).

At the level of the audience, quantitative description and qualitative analysis should go hand in hand (homogeneity and specificity of specialised audiences).

The question of secondary audiences is important and that of motivations fundamental.

As for the effects (response analysis), a distinction should be made between short-term effects (immediate social impact) and long-term effects (changes in social structure).

In the first of these fields, we should note:

Resistance to information (more or less conscious attitude inducing disbelief in a message).

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[1] Cf. the American television programmes *Sunrise Semester* and *Continental Classroom.* (See also on page 30 of this number an account of *Sunrise Semester*).

[1] The important question of the part played by television in leisure activities and its role in popular education was therefore not touched upon at this *Semaine.* Mr. Dumazedier intended to deal, on the one hand, with the sociological survey of the tele-club movement and the reactions of its members, which he had been asked by Unesco to undertake and which led to the publication of the well-known work *Télévision et Education Populaire: Les Télé-Clubs de France* (Paris, UNESCO, 1955), and, on the other hand, with recent research in the field.

Inter-personal relations

These change because of television which becomes a common denominator of mankind (creates exchanges, new relations; changes existing relations; sets up new social groups—tele-clubs or televiewers' societies).

Collective relations

These come under mass dynamics and arise from the feeling experienced by the individual in front of his receiving set that thousands of people are watching and reacting like him.

In the field of long-term social changes, our attention should be particularly drawn to:

(i) The enlargement of personal living space.

Experience, environment created by television.

Danger of confusion between shadows and reality.

(ii) The transformation of educational and cultural processes.

Television abolishes the privileged position of the school in education.

Permanence of opportunities of audio-visual education.

Evolution of language.

Chances of progressive cultural advancement of socio-cultural strata.

(iii) Change in social structures.

The levelling, but not the debasement, of generations in the socio-economic strata.

Social and economic advancement.

Development of the nature and stability of public opinion: fostering, establishing and transforming opinion.

Who can fail to see that a collective study, or rather a collection of studies, is the only thing likely to make possible the verification of the genius of television to which the Minister of Cultural Affairs, Mr. Harmel, referred in his inaugural speech? And besides, such a scheme would seem to be an effective way of trying to bring about at top level the reconciliation the Minister desired between the intellectuals and television, " these two forces that have everything to lose by ignoring each other when they could collaborate so successfully ".

In his concluding remarks, Mr. Blin recalled that the function of television was to " inform, form and transform ". " To be aware of the importance of the social aspects ", he continued, " is not enough. There must be more research with the collaboration of the social science experts and those responsible for programmes. This collaboration must be international ".

Personally, I can see no reason for closing the proceedings in any other way.

INTERNATIONAL CONFERENCES CONCERNED WITH BROADCASTING

18-22 July	OEEC	Seminar on the Use of Television for the Teaching of Science	Berkhamsted
24-29 July	IFMC	International Folk Music Council, 13th Annual Conference	Vienna
20-24 September	EBU	Legal Committee, 11th Plenary Session	Oslo
26 September-3 October	EBU	GTV/1, GTV/2, Bureau of the Programme Committee, 15th Meeting, and Programme Committee, 8th Plenary Session	Trieste
27 September-11 October	Prix Italia	General Assembly and meeting of the Juries	Trieste
10 October	EBU	Study Group on the Development of Sound Broadcasting	Trieste
28 October-1 November	EBU	Administrative Council, 23rd Meeting	Geneva
25-28 November	EBU	General Assembly, 11th Ordinary Session and 5th Extraordinary Session	Madrid

EUROVISION PROGRAMME STATISTICS

Period 1st July — 31st December 1959

Organisations	BBC	RTF	CLT	RMC	INR	NIR	NTS	ARD	ORF	DSR	SRT	NRK	SRG	RAI	ITA	Special prog.	Total	%
I. ORIGIN OF PROGRAMMES																		
Number of programmes	32	48	—	1	3	2	15	25	5	2	7	1	6	40	1	—	188	—
Percentage	17.0	25.9	—	0.5	1.6	1.1	8.0	13.3	2.6	1.0	3.7	0.5	3.1	21.2	0.5	—		100
II. DURATION																		
Total hours of transmission (duration at the point of origin)																	196	
Total hours of trans. by each organisation ...	69	95	12	13	128	123	83	105	46	59	57	9	80	93	8	—	991	
III. TYPE OF PROGRAMME																		
Sport	10	13	—	—	3	—	8	9	1	1	3	—	3	22	1		74	39.3
Actualities	17	31	—	—	—	1	3	6	1	—	1	—	—	13	—		73	38.8
Light entertainment ...	2	—	—	—	—	—	1	3	—	1	—	—	3	3	—		13	7.0
Drama, music, ballet ..	3	3	—	1	—	—	—	3	2	—	—	—	—	1	—		13	7.0
Other cultural progr. ..	—	—	—	—	—	1	—	1	—	—	1	1	—	—	—		4	2.1
Religious	—	1	—	—	—	—	—	3	1	—	2	—	—	1	—		8	4.2
Folklore	—	—	—	—	—	—	3	—	—	—	—	—	—	—	—		3	
Children's programmes	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—		—	
Total	32	48	—	1	3	2	15	25	5	2	7	1	6	40	1		188	100.0
IV. PARTICIPATION IN EXCHANGES																		
No. of transmissions .	53	73	14	13	129	122	83	82	36	44	55	5	55	65	10	—	858	
Percentage	28	39	7	6	69	65	44	43	19	23	29	3	29	35	5	—		

The abbreviations of the names of television organisations are as follows:

BBC — British Broadcasting Corporation (United Kingdom)

RTF — Radiodiffusion-Télévision Française (France)

CLT — Compagnie Luxembourgeoise de Télédiffusion — Radio-Télé-Luxembourg (Luxembourg)

RMC — Radio Monte-Carlo (Monaco)

INR — Institut National Belge de Radiodiffusion (Belgium)

NIR — Belgisch Nationaal Instituut voor Radio-Omroep (Belgium)

NTS — Nederlandse Televisie Stichting (Netherlands)

ARD — Arbeitsgemeinschaft der Öffentlich-Rechtlichen Rundfunkanstalten der Bundesrepublik Deutschland (German Federal Republic)

ORF — Österreichischer Rundfunk-GmbH (Austria)

DSR — Danmarks Radio (Denmark)

SRT — Sveriges Radio (Sweden)

NRK — Norsk Rikskringkasting (Norway)

SRG — Schweizerische Rundspruch-Gesellschaft (Switzerland)

RAI — Radiotelevisione Italiana (Italy)

ITA — Independent Television Authority (United Kingdom)

6th June 1954 — 31st December 1959

I. ORIGIN OF PROGRAMMES

	Period	BBC	RTF	CLT	RMC	INR	NIR	NTS	ARD	ORF	DSR	SRT	NRK	SRG	RAI	ITA	Special prog.	Total
A	6.6-31.12.1954	9	6	—	—	2	2	4	10	—	1	—	—	15	6	—	—	55
B	1.1-30.6. 1955	—	10	—	—	1	2	4	7	—	—	—	—	1	9	—	—	34
C	1.7-31.12.1955	14	7	—	—	—	3	2	10	—	—	—	—	6	15	—	—	57
D	1.1-30.6. 1956	16	16	1	5	5	3	5	19	1	—	—	—	9	63	—	—	143
E	1.7-31.12.1956	22	34	—	—	3	—	8	18	3	8	—	—	5	6	—	—	107
F	1.1-30.6. 1957	26	27	5	2	3	1	7	19	5	2	—	—	6	17	—	—	120
G	1.7-31.12.1957	15	25	—	—	11	4	7	10	3	1	—	—	2	8	—	1	87
H	1.1-30.6. 1958	15	16	1	—	5	4	6	8	19	—	13	—	5	9	—	—	101
I	1.7-31.12.1958	17	40	—	1	2	4	4	7	4	2	2	—	2	17	—	—	102
J	1.1-30.6. 1959	10	16	7	1	4	1	3	9	21	1	2	—	13	14	—	2	104
K	1.7-31.12.1959	32	48	—	1	3	2	15	25	5	2	7	1	6	40	1	—	188
	Total	176	245	14	10	39	26	65	142	61	17	24	1	70	244	1	3	1098

II. DURATION

Period	A	B	C	D	E	F	G	H	I	J	K	Total
Hours	73	44	71	156	117	136	125	135	124	143	196	1320

III. TYPE OF PROGRAMME

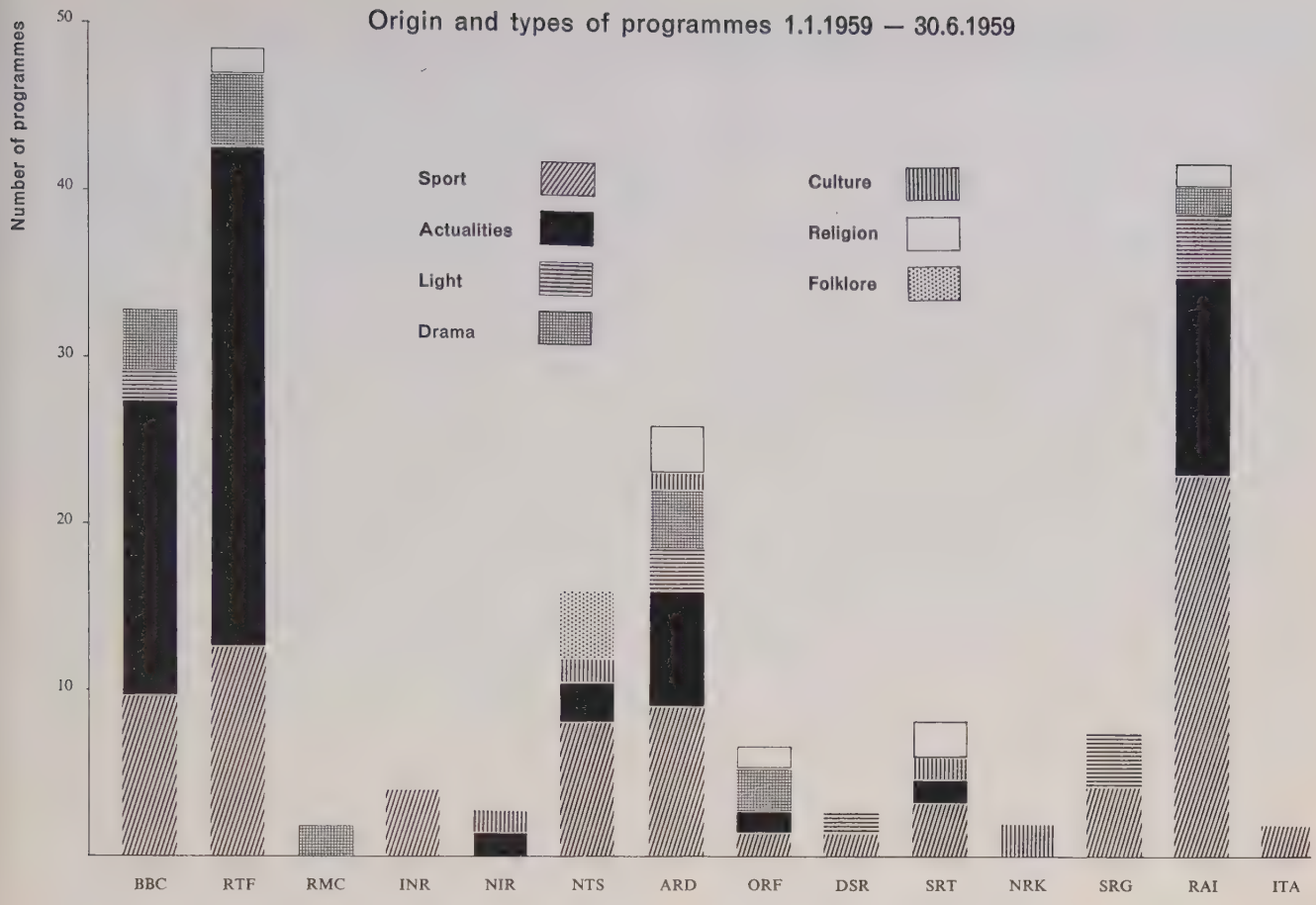
	6.6.1954 - 30.6.1959		6.6.1954 - 31.12.1959	
	Number of programmes	Percentage	Number of programmes	Percentage
Sport	578	63.6	652	59.4
Actualities	114	12.5	187	17.0
Light entertainment	88	9.7	101	9.1
Drama, music, ballet	59	6.5	72	6.6
Other cultural programmes	12	1.3	16	1.5
Religious	39	4.3	47	4.3
Folklore	14	1.5	17	1.6
Children's programmes	6	0.6	6	0.5
Total	910	100.0	1098	100.0

IV. PARTICIPATION IN EXCHANGES

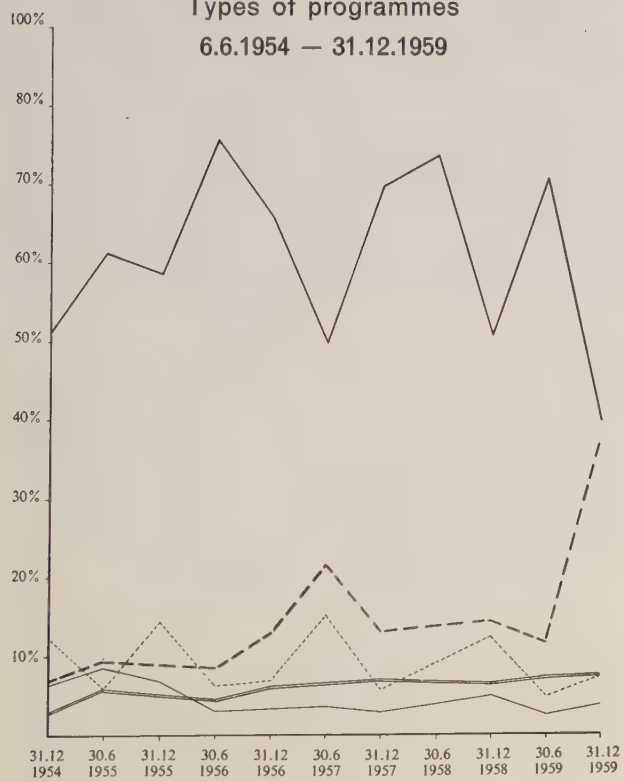
	Period	BBC	RTF	CLT	RMC	INR	NIR	NTS	ARD	ORF	DSR	SRT	NRK	SRG	RAI	ITA	Special prog.	Total orig.	Orig.+ relays	Average part.
A	6.6-31.12.1954	45	44	—	—	45	46	45	45	—	?15	—	—	37	36	—	—	46[1]	358	
B	1.1-30.6. 1955	—	26	—	—	32	32	29	27	—	—	—	—	25	27	—	—	34	198	
C	1.7-31.12.1955	21	39	—	—	36	45	39	37	6	—	—	—	46	30	—	—	57	299	
D	1.1-30.6. 1956	60	89	50	5	81	97	87	81	72	6	—	—	91	94	—	—	143	813	
E	1.7-31.12.1956	34	64	43	1	85	75	61	39	29	19	1	—	40	29	—	—	107	520	
F	1.1-30.6. 1957	52	67	46	52	67	71	53	44	30	14	11	—	39	39	—	—	120	585	
G	1.7-31.12.1957	29	53	26	33	61	62	37	37	19	18	6	—	35	41	2	1	87	460	
H	1.1-30.6. 1958	50	66	43	28	66	63	49	68	57	32	24	—	61	59	10	—	101	676	
I	1.7-31.12.1958	39	71	43	32	61	73	46	44	21	30	28	—	53	52	10	—	102	603	
J	1.1-30.6. 1959	36	57	22	27	68	72	30	63	47	31	48	—	69	53	4	2	104	629	
K	1.7-31.12.1959	53	73	14	13	129	122	83	82	36	44	55	5	55	65	10	—	188	858	
	Total	419	649	287	191	731	758	559	567	317	209	173	5	551	525	36	3	1098	5999	5.46 org.

[1] Total number of transmissions during this period: 55. No information available on participation for 9 transmissions (8.7-31.8.1954).

Origin and types of programmes 1.1.1959 — 30.6.1959



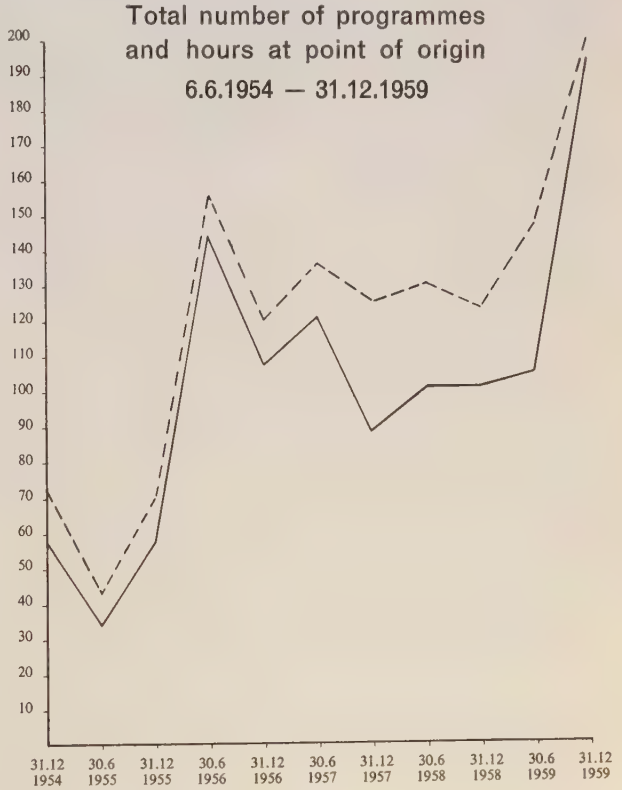
Types of programmes
6.6.1954 — 31.12.1959



Sport
Actualities
Light
Religion
Drama

Note: Figures below 2.5 % have not been included.

Total number of programmes and hours at point of origin
6.6.1954 — 31.12.1959



Total number of programmes
Total duration (hours)

News and Information

GERMANY (Federal Republic)

Present position of commercial television. — The last survey of commercial television in Western Germany published in the *EBU Review* (No. 53 B, page 27) showed that five of the broadcasting organisations— the Bayerischer Rundfunk, Sender Freies Berlin, the Hessischer Rundfunk, Südwestfunk and Süddeutscher Rundfunk—were transmitting on weekdays a joint commercial television programme *(Zwischen halb und acht)*. This programme continued throughout 1959, produced and transmitted by the five organisations (known as the *Südschiene*), the accounts too being settled conjointly.

On 1st January 1960, the *Südschiene* was dissolved and the organisations began transmitting independent regional commercial programmes for which a separate commercial television company is responsible in each area.

In Bavaria, where the **Bayerischer Rundfunk** was the first of the West German broadcasting organisations to start commercial television programmes (on 3.11.56 [1]), the *Bayerisches Werbefernsehen GmbH* of Munich is an independent firm, as are the commercial television companies in the other regions. It was founded in July 1956 and is responsible for an entertainment programme of about 38 minutes on weekdays (18.30-18.45 hours and about 19.25-20.00 h.). Commercial spots are included in three blocks of five minutes each around 18.45, 19.25 and 19.55 h. The tariffs run as follows: 1,050 DM for 15 seconds rising to 3,000 DM for 60 seconds before 19.25 h.; 1,400 DM for 15 seconds rising to 4,000 DM for 60 seconds after 19.25 h.

The **Sender Freies Berlin,** which joined in transmitting the Bayerischer Rundfunk's commercial television programme on 4.12.56 [2], now broadcasts a 75-minute commercial programme for which the firm *Berliner Werbefunk-GmbH* is responsible. Twelve minutes out of the 75 are given up to spot advertisements, i.e. about 15%, and the programme runs from 18.45-20.00 h. The minimum tariff is 975 DM for 15 seconds, the maximum 3,000 DM for 60 seconds.

The firm *Werbung im Rundfunk GmbH*, founded in Frankfurt in 1954 originally for commercial sound broadcasts, organises in the broadcasting area of the **Hessischer Rundfunk** the commercial television programme which first began on 1.1.58. The programme *Zwischen halb und acht* is still broadcast on weekdays from 19.25-20.00 h., the entertainment part of the programme taking up 22 minutes. Out of the half-hour, 6 minutes may be sold for advertising, although it has now become necessary to extend this time to 7 minutes. On 1.3.60 an additional commercial programme was started between 18.45 and 19.00 h.; 3 minutes of this are for sale but usually almost 4 minutes are sold. During the months of July and August this shorter programme is not sold out and will not be transmitted. The tariffs run from 925 DM (15 seconds) or 2,600 DM (60 seconds) between 18.45 and 19.00 h., to 1,250 DM (15 secs.) or 3,600 DM (60 secs.) between 19.25 and 20.00 h.

On 2.1.60 the newly-founded company *Werbung im Südwestfunk GmbH* took over the running of the commercial television programme which had already been transmitted by the **Südwestfunk** in the Baden-Baden area since 1.1.58. It is now broadcast on alternate weekdays conjointly with that of the **Süddeutscher Rundfunk** and its commercial television company *Rundfunkwerbung GmbH* in Stuttgart. In both regions the transmissions begin on weekdays at 19.25 h. and last for about 34 minutes, of which a maximum of 8 minutes daily, irrespective of a seasonal adjustment, may be pure advertising. The tariffs range between 2,000 DM for 15 seconds and 5,800 DM for 60 seconds.

The **Norddeutscher Rundfunk** and **Radio Bremen** also transmit a joint commercial programme, through the company *Norddeutsches Werbefernsehen GmbH* which was founded in Hamburg in October 1958 [1]. Except on Sundays and holidays, the programme runs from 19.25-20.00 h. Within this time, up to 9 minutes may be devoted to advertisements at the start and at the end, clearly separated from the programme itself which lasts for 22 minutes. There are no sponsored programmes. This service began on 1.4.59. The shares in the company belong only to NDR and Radio Bremen; there are no private shareholders. Tariffs are 2,600 DM for 15 seconds increasing to 8,000 DM for 60 seconds.

In the Cologne broadcasting area, commercial television is the concern of the company *Westdeutsches Werbefernsehen GmbH*. The **Westdeutscher Rundfunk** plays an important part in the company. Transmissions started on 1.4.59 and occupy the time from 19.25-20.00 h. on weekdays only. They consist, on an average, of 3 minutes of 6 to 9 different advertising spots, followed by a 23-minute entertainment (" frame ") programme, then another 3 minutes of 6 to 9 commercials. On a yearly basis, pure advertising may take up 6 minutes daily; this may be increased to 8 minutes at peak selling periods but must then be compensated for at slack times to maintain the average of six minutes daily. Taken throughout the year 1960, the commercial programmes shown in the WDR area will be seen by an estimated number of

[1] Cf. *EBU Bulletin* No. 39, page 730

[2] Cf. *EBU Bulletin* No. 41, page 75

[1] Cf. *EBU Review* No. 53 B, page 27

2.3 million viewers. Tariffs range between 6,000 DM for 15 seconds to 17,000 DM for 60 seconds.

The last of the West German broadcasting organisations to start commercial television is the **Saarländischer Rundfunk,** whose transmissions began on 9.11.59 through the company *Werbefunk Saar—Gesellschaft für Funk- und Fernsehwerbung mbH.* Here too the programme runs from 19.25-20.00 h. and contains about 6 minutes of pure advertising. Prices range from 525 DM for 15 seconds to 1500 DM for 60 seconds. Each additional 10-second period costs 250 DM. The programme is broadcast in the area of the Saarländischer Rundfunk only.

In all regions, discounts are allowed to advertisers buying time throughout the year; for instance, the companies in Munich, Frankfurt, Cologne, Hamburg and Bremen allow a 20% discount for bookings of 96 minutes in one year, while Baden-Baden and Stuttgart allow 15% for 72 minutes in a year.

An agreement exists between the commercial television companies providing for the exchange of the entertainment (" frame ") programmes produced individually by the broadcasting organisations and television companies.

ISRAEL

The Second International Bible Contest. — In September 1961 Kol Israel will again be responsible for the organisation of an International Bible Contest in Jerusalem, three years after the remarkable inaugural Contest which was fully described in *EBU Review* No. 51 B, pages 13-15.

Kol Israel will be turning to radio and television services everywhere to cooperate with them in the selection of a national winner in each country on the basis of a set of rules which will be sent to these services as early as possible. It is also hoped that a representative of Kol Israel will be able to visit all interested organisations personally.

ITALY

Italian listeners' clubs abroad. — For three years the RAI has been transmitting a weekly programme for Italian children in Australia, New Zealand, Africa and America. Under the title *Great and Small Men*, it illustrates either the life of great Italians, a significant happening from Italian history or a famous children's story. The actors taking part in the programme are children from the " nursery school of film actors ", and they are naturally the heroes of their small listeners who shower them with presents and letters.

A pleasing result of the programme is the forming by Italian listeners abroad of clubs which bear its name. Three already exist, in Argentina, Peru and South Africa, and a fourth is being started in New Zealand. During 1959 four free air tickets to Italy were given to Italians abroad who have organised clubs or done active work in spreading a knowledge of the RAI's broadcasts in other lands.

UNITED KINGDOM

The BBC Television Centre. — The BBC Television Centre, now nearing completion four miles west of Central London, stands on a 5.26 hectare site and rises to seven stories in its Main Block. It has taken ten years to develop from the architect's original plan. The circular Main Block with its seven studios and several hundred offices itself covers almost 1.5 hectares, nearly twice the area covered by St. Paul's Cathedral. In addition, a Scenery Block, a Restaurant Block and a Works Block will shortly be built. Later, a spur or tail running from the Main Block will be added.

The district, White City, takes its name from the famous exhibition ground which was a great attraction in the years before the First World War, and the Main Block now stands on the place where the exhibition had its focal point.

Four of the studios will be larger than any now in use in Britain. The largest, which is 32.9 m. long, 30.5 m. wide and 16.5 m. high, will have a pit measuring 15.2 m. by 9.1 m., which can be filled with water to a depth of more than two metres for aquatic displays in spectacular entertainment shows. It can accommodate an audience of up to 600, and the seating can be moved out if the entire studio is needed for a production.

The circular design of the building allows for all scenery and equipment to go into the studios from the outside, and artists from the inside. To this end, a high, wide runway encircles the building, along which scenery will be conveyed on trucks from the Scenery Block, while accommodation for artists is grouped on the ground floor and basement in the centre of the circle.

Below ground level there are 85 dressing rooms for 613 artists, with showers, make-up and hairdressing rooms. At ground level there are 36 single dressing rooms for star artists, many of them with private bathrooms. Three main assembly areas for artists lead to groups of studios, and each is decorated in a distinctive colour which is repeated along the route from the dressing rooms connected with those studios, so that artists may find their way easily and quickly to and fro. Each assembly area is provided with a rest room, a refreshment counter and telephone boxes.

The layout of the Main Block puts studios, technical and apparatus areas on the first and second floors. This technical area also houses the Continental Control Point which injects programmes originating in Britain into the Eurovision network.

THE BBC TELEVISION CENTRE (Aerofilms Ltd.)

The first television programme from this Centre will be transmitted on 29th June 1960

Two important works of art have been commissioned for the Television Centre. Across the full width of the entrance hall is a mural in mosaic by John Piper. The garden in the centre ring of the Main Block is dominated by a fountain, above which, on an obelisk, stands a statue of Helios, the all-seeing Sun God of Greek mythology. The sculptor is T. B. Huxley Jones.

The architect of the Television Centre is Graham Dawbarn, of Norman and Dawbarn, working in association with M. T. Tudsbery, Civil Engineer, and lately Consulting Civil Engineer, to the BBC. Sir Howard Robertson and Sir William Holford were appointed architectural consultants, and the main contractors are Higgs and Hill.

BBC Television Code of Practice. — The BBC's Controller of Television Programmes, Mr. Kenneth Adam, has prepared and sent out to producers a code of practice to stop unneccessary scenes of violence on BBC television programmes for children and adults. In view of the interest of this document, a brief outline is given below.

Children's programmes

It is generally recognised that the worlds which children and grown-ups occupy, though they overlap, are different. Subjects with unpleasant associations for the one will often be taken for granted by the other. Guns and fisticuffs may have sinister implications for adults; seldom for children. Family insecurity and marital infidelity may be commonplace to adults; to children they can be deeply disturbing.

The main danger points are:

(a) Situations which upset a child's emotional security, especially in contemporary settings.

(b) Portrayal of injury, illness or disablement.

(c) Dangerous examples of ' villainous ' action which invite imitation, e.g. the use of intriguing weapons, traps and pitfalls.

(d) Bad habits in ' good ' characters.

(e) Brutality: the most difficult category. Brutality is not the same thing as violence, nor is violence the

same thing as combat. Yet because combat, which is healthy, and brutality, which is not, both contain violence, they tend to become identified. Over-emphasis in picture and sound is one key. The long camera shot renders many affrays and battles inoffensive; close-up camera shots make the same incidents inadmissible.

(f) Weapons: the choice is important. Coshes, knives, whips and bottles are more suspect than revolvers, rifles or swords, because they are more easily available or improvised.

(g) Atmosphere: this can be more upsetting than violence. To chill the spine is a legitimate part of story telling. To create an eerie and fearful atmosphere, especially with the aid of background music, or sudden optical shock, can be more than momentarily disturbing. The supernatural, especially in modern dress, is perilous ground.

These points made in relation to children's programmes are considered to be of importance to those concerned with programmes up to 9 p.m., during which time children are known to be watching in substantial numbers.

Adult programmes

Producers must always satisfy themselves that the illustrations they choose which depict scenes of violence, brutality or horror are valid and essential to their theme. If the viewer is to be exposed to shock, or indeed to fear, there must be a certainty in advance that the reasons are good and proper ones.

The Code re-states the following principles:

(a) A sequence involving violence should arise naturally from the story and therefore be dramatically necessary and defensible.

(b) Any such ' natural ' sequence should not be unduly prolonged.

(c) No sequence should include shots which dwell upon the more gruesome and bloody physical aspects of a combat.

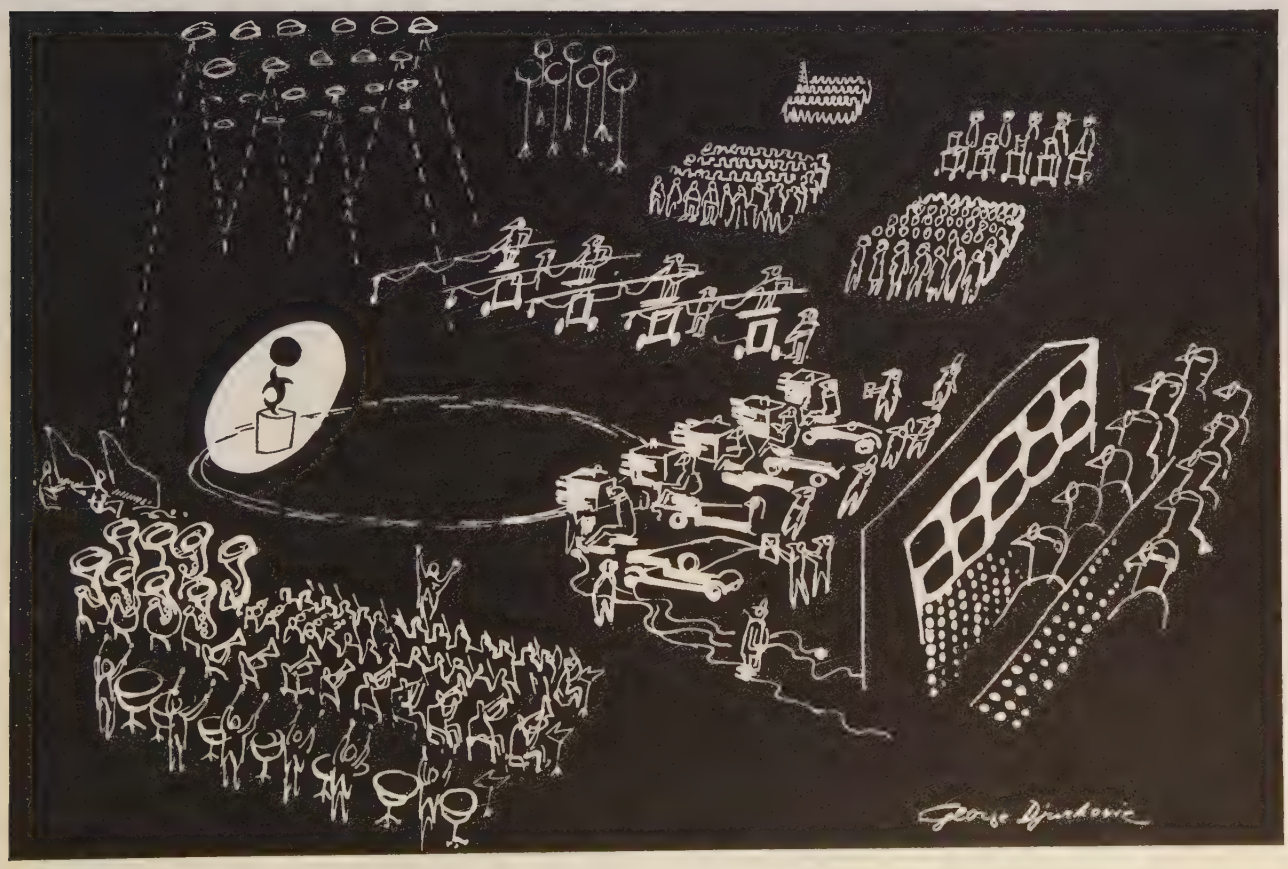
(d) The use of dangerous implements, other than firearms, has to be watched, to avoid revulsion and limitation in viewers.

(e) Sound effects and sound track should not distort or magnify the impact of violence.

(f) In a fist fight, neither contestant should engage in tactics of a vicious or bestial nature.

(g) Violence inflicted on a woman or animal must require special scrutiny.

Drawing by George Djurkovic



UNITED STATES

" Sunrise Semester "... New York goes to college before breakfast. — When *Variety*, the Bible of show business, wrote about the " first unquestioned hit show of the new television season " in the fall of 1957, it wasn't referring to any of the big night-time extravaganzas. It was talking about a programme seen only on one station in New York—not at night, but at the unlikely hour of 6.30 in the morning !

It wasn't even an entertainment programme. It was educational. And instead of a cast of name personalities, the cameras played on a single individual of whom relatively few people had ever heard before.

The hit was *Sunrise Semester*, presented by New York University in cooperation with WCBS-TV, the key station of the CBS Television Network. The " star " was Dr. Floyd Zulli, Jr., Assistant Professor of Romance languages at NYU, teaching *Comparative Literature 10*, a study of the modern novel from Stendhal to Hemingway, New York City's first televised course for college credit.

Sunrise Semester was born after months of planning on the part of both NYU and the station... planning that took into consideration the amount of time required to present the subject adequately, the cost of tuition and registration, and the mechanics of enrolment and a final exam.

With the solution of the most important problem—the recruitment of a scholar with the physical stamina to endure the rigours of checking in at the studio at 5.45 a.m. plus the flair and imagination to adapt himself to teaching before thousands in a " classless " classroom—plans for *Sunrise Semester* were ready to be announced.

Education leaders and journalists who attended the press luncheon at which the announcement was made greeted the news with mixed degrees of scepticism. Could a college course be effectively taught by television—without questions and answers ? Was it wise for a university to work with a commercial television station at all ? Who would pay $75 to enrol in a television course on literature, even to earn three college credits ? Who in the world would even watch television at 6.30 in the morning ?

The press in general, while applauding the concept (Harriet Van Horne of the *New York World-Telegram and Sun* called it " the most radical announcement to come from Madison Avenue in years "), scoffed at the practicality of the project and at the likelihood of its success.

But the June detractors became the September supporters as the press did an about-face after viewing the first television class. Jack Gould of the *New York Times* noted that " New York University and the Columbia Broadcasting System are not entirely mad ", adding that the *première* was " a refreshing and civilised hit ". The *Daily News* called it " more exciting than television's Westerns ". The *Journal-American*, which only a few weeks before had editorialised " No deep bows for its deathless interest in culture will be taken, we trust, by WCBS-TV in donating time from 6.30 to 7 a.m. ", now was highlighting the programme each morning, and even requested permission to summarise Dr. Zulli's lectures in print.

Even the time period was now being hailed for its suitability for working people as an hour when the mind is free, the household quiet and there is no adolescent competition for the television set.

Over 13,000 people wrote to NYU requesting enrolment information and 177, who fully met the prescribed University entrance requirements, paid the $75 registration fee for three college credits. Among the estimated 120,000 others who followed the course were working men and women, grandmothers, high school students, elderly couples and whole families, who watched and took notes as conscientiously as the registered students, motivated by no prospect of gain except a better understanding of the 16 classic novels covered and the pleasure of meeting a perceptive mind.

The enthusiastic and voluminous viewer mail was surpassed as testimony of the course's success by the complete sell-out in New York City of the first book for study. By noon the first day, Stendhal's *The Red and the Black* had become as rare in the city as a collector's item and one book-seller was willing to bet that more copies of the book had been sold in New York in the first week of *Sunrise Semester* than had been sold in the author's entire lifetime.

Book stores rushed to stock the remaining books included in the course and set up special sales displays and advertised their availability. One book store made history not only in book retailing circles but also in television by buying time adjacent to the programme to announce that they had procured copies of the books. Never before had any advertiser—least of all a bookseller—bought television advertising at 6.30 in the morning on WCBS-TV.

Another unprecedented event in the world of books was the collaboration of a publisher (Dell Publishing Co., Inc.), an educational institution (NYU) and a television station (WCBS-TV) in the publication of a special, paperback set of books (the " Sunrise Semester Library "). The printing of the seven books that were required reading for the 1959 literature course also marked the first time that books were produced in mass volume for a television class.

A year after Dr. Zulli's first lecture, he was being watched by people throughout the United States as a result of the purchase by the Westinghouse Broadcasting Company Inc. of filmed recordings of the course for showing in its television stations in Boston, Baltimore, Pittsburgh, Cleveland and San Francisco. The kinescopes were also distributed in Europe by the Educational Television and Radio Center.

Since its inception two-and-a-half years ago, *Sunrise Semester* has offered New York's early risers courses in mathematics, archaeology, great books, political science, sociology, history, physical science, fine arts and psychology. A successful innovation in the teaching method has been the supplementing of the video lectures with periodic discussion sections held in three suburban communities and conducted by the course professors and their departmental colleagues.

This year, thousands more have jumped at the jangle of the alarm clock to " attend college " with their morning cup of coffee. For *Sunrise Semester* has proved itself not only a significant contribution to the advancement of learning but what show business would call " a smash ".

John Horn
Director, Information Services, WCBS-TV

International Contest for the Best Sound Recording. — Ninth competition of this name, the 1960 *Concours International du Meilleur Enregistrement Sonore* (CIMES) is open from 1st June to 15th September as usual and will be judged at the beginning of November.

For the first time, the International Jury will sit at Hilversum, in Holland. Also for the first time, stereophony will be considered on an equal footing with monophony.

It will be recalled that the CIMES was founded by Switzerland and France in 1952 and in France is under the patronage of the RTF and the Haut Commissariat à la Jeunesse et aux Sports. It brings together in competition each year amateur " sound trackers " whose numbers increase continually with the popularisation of the tape-recorder. This year more than twenty countries are expected to take part.

The rules and the list of prizes, published in several languages, are being circulated by the Nederlandse Vereniging van Geluidsjagers, which is responsible for the organisation of the finals (Slotlaan 154, Zeist, Netherlands).

In France, they can be obtained at the following address: 9e Concours International du Meilleur Enregistrement Sonore, RTF, 107, rue de Grenelle, Paris 7e. It is to this same address that competitors must send their entries, not later than 15th September 1960.

Various supplementary details on the 9th CIMES will be given in the broadcast *Aux Quatre Vents* during the month of June (France II, every Saturday, 13.50—14.10 h.).

In Part A (Technical) of EBU Review No. 62

you will find :

— a paper by the operations department of the RTF on French television outside broadcasting technique,

— a description of recent developments in the Swedish television network by Tage Rosenlund.

— a study by H. Mertens on the use of an analogue computer for determining the spectrum of the Kahn compatible single-side-band system of modulation,

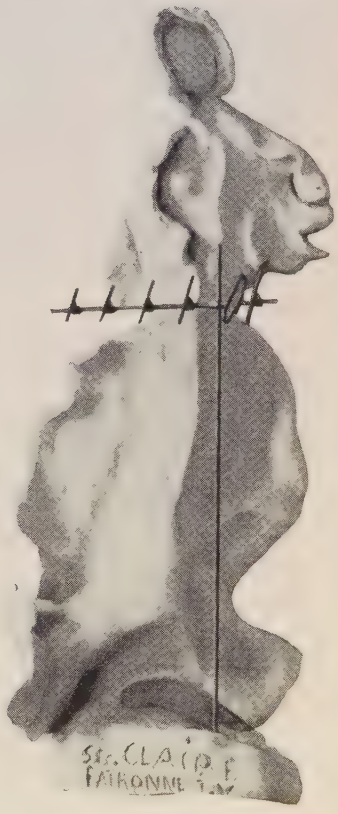
— a paper by H. Page on the utilisation of an analogue computer in aerial design,

— news items concerning the technical activities of the sound and television broadcasting services of various countries,

— the changes that have occurred in the long, medium and vhf (band 2) broadcasting bands in Europe up to 1st July, 1960,

— a chart illustrating the situation in band 2 (vhf/fm sound broadcasting) in Europe on 1st July, 1960,

— a brief account of a recent meeting of working party A (sound broadcasting on long and medium waves).



Statue of St. Claire, Patron Saint of Television, by M. Gust Graas, Secretary-General of the Compagnie Luxembourgeoise de Télédiffusion.

The Danish Copyright Bill

by Ejnar Jensen, Head of Secretariat, Danmarks Radio

Early in January 1960 the Danish Minister of Education submitted to the Danish Parliament a Bill on copyright in literary and artistic works as well as a Bill relating to the right in photographs. Both Bills were prepared after long and thorough inter-Scandinavian discussions aimed at establishing between the Nordic countries still greater legal uniformity in this field than has been possible on the basis of the Acts hitherto in force. Similar Bills have also been submitted or are about to be submitted to the Parliaments of the other three countries.

The two Danish Bills have been drawn up in such a way as to enable Denmark to ratify the Berne Convention as revised at Brussels in 1948; they also bring up to date the previous Acts and contain a number of additions.

In these columns reference will be made only to those provisions that are of special significance from the point of view of radio and television, and I shall not attempt any commentary on them.

The Copyright Act of 1933, which has been in force so far, did not clearly give the authors the exclusive right to produce copies of the work, which has meant that until now Danmarks Radio has been able free of charge to make recordings of protected music for its own broadcasts without signing any agreement with the mechanical rights societies.

Section 2 of the literary and artistic copyright Bill now unequivocally grants this right, but at the same time Section 11 admits an exception as regards the production of copies for private use, and in the explanatory note to Section 11 it is stated that this exception also covers cases where, for example, scripts are written out for persons taking part in a lawful public performance of a play.

Further, Section 22 provides for an exception to this exclusive right in favour of radio and television organisations, entitling them for the purposes of their broadcasts to record works on tape or on film or on other contrivances by which these works can be reproduced, provided of course that they are authorised to broadcast the works thus reproduced. Detailed provisions governing the use and preservation of such recordings in pursuance of Article 11 bis (3) of the Berne Convention shall be fixed by Royal Decree.

Section 22 further includes a limited compulsory licence in favour of radio and television. When the broadcasting organisations (Radio Denmark and Radio Greenland) have signed a contract with a society representing an important section of Danish authors of a particular class of works, granting them the right to broadcast works in this class, they are also entitled to broadcast similar works of authors who do not belong to that society. It is assumed, however, that the usual remuneration will be paid in this case and that the authors concerned have not expressly prohibited the broadcasting of the works. This provision does not apply to theatrical works, i.e. dramatic and dramatico-musical works, and will become of the greatest importance in respect to the *petits droits* in musical and literary works, but in view of its wording it may also be applicable to films, for example.

The radio and television news services benefit by a provision in Section 21 enabling broadcasting organisations (and film companies) to reproduce short extracts from protected works for the purpose of reporting current events. As to works of art (paintings and sculptures), a more extensive provision is found in Section 25, under which such works may be shown free of charge on television (and in films) provided the reproduction is only incidental to the principal matters represented in the television programme.

Section 50 of the Bill restricts the radio news service by a provision under which news material supplied by foreign news agencies or correspondents abroad may not be made public through the press, radio or any other means without the authorisation of the owner until 12 hours have elapsed after the material has been published in Denmark.

The provisions governing the *droit moral* of the author have been modified. The absolute right of the author to have his name quoted in connection with the work has been transformed into a right to require that the name should be mentioned in accordance with common practice. As to the right to have the integrity of the work respected, the Act currently in force protects the author against distortion, abridgement or any other alteration of the work which may be deemed to be a mutilation of that work. Under Section 3 of the Bill the work may not be altered or made public in such a way as to prejudice the reputation or the literary or artistic originality of the author. While, as regards alterations, the Bill does not substantially modify the Act now in force, the prohibition against making the work public in a way prejudicial to the author increases the protection, as it enables him to take legal action if his work is made public in an unaltered

form but in a context detracting from his reputation. The safeguarding of the *droit moral* of deceased authors has been so far entrusted to the Minister of Education, whereas Section 30 of the Bill confers the right to take legal action on the surviving spouse and relatives in ascending or descending line. The right of the Minister of Education to introduce an action is limited by Section 53 to cases where cultural interests are in jeopardy.

In view of the right to take action in cases of infringement of the *droit moral* of deceased authors as established by the Bill, and especially in view of the fact that this right is granted to persons who have not benefited by the copyright, one cannot exclude the possibility that the number of cases involving *droit moral* will be considerably larger than the total of about a hundred which the Ministry of Education has had to settle and of which only a few have been brought before the courts since the 1933 Act came into force.

The question whether, under the current Copyright Act, producers are entitled to protection in respect of their *mise en scène* has often given rise to disputes between Danmarks Radio and the producers, especially when a performance from the current theatrical repertoire has been broadcast either on sound or television, whether actors from the theatre concerned came to the studio or whether it was a relay from the theatre itself. These disputes, however, have not yet been the subject of any ruling in the courts. The Bill does not aim specifically at a solution of the question, but the explanatory note to Section 4 of the Bill, dealing with the protection of persons who translate, transform or adapt a work, states that a producer, in order to claim protection for his *mise en scène*—apart from the cases where he has entirely transformed the work—must, by means of his own directives or the reshaping of the performance, have added something quite new and characteristic which is the result of his personal creative effort, and that the protection in such a case extends to the *mise en scène* as a whole. Hence, protection for producers might become a matter of real importance for radio and television organisations relaying theatrical performances.

The question of the *domaine public payant* is not covered by the Bill, but after it was submitted to Parliament a committee of experts put forward suggestions concerning a special Act to provide for this right, under which the publishers would have to pay 5% to a special fund, calculated on the basis of the retail price per copy. Further, this Bill would authorise the Minister of Education to provide for the payment of a fee for other uses of free works, for example, in radio and television broadcasts. It is not yet possible to foresee what fate this suggestion is likely to meet.

The main innovation of the Bill is the provision of protection for *performing artists, record manufacturers* and *radio and television broadcasts.*

As regards performing artists, protective measures have not so far been included in Danish legislation, nor have the courts granted them any protection on the basis of general legal principles. On the other hand, a number of the rights traditionally claimed by the performers have been safeguarded by collective agreements with, for instance, Danmarks Radio.

Under Section 45 of the Bill, the performance of a literary or artistic work by a performer may not, without his consent:

(a) be fixed on a record, tape, film or any other contrivance by which it may be reproduced,

(b) be transmitted live by means of sound broadcasting or television,

(c) be communicated by any other technical procedure to any persons other than those before whom the artist is performing.

Protection is thus restricted to cases where a work is performed, and therefore excludes variety artists, *inter alia*, from protection.

Further, the performer is granted protection against the copying of gramophone records, etc., for a period of 25 years.

The performer's *droit moral* is protected to the same extent as that of the authors.

Under the Act at present in force, the record industry in fact enjoys copyright protection, whereas Section 46 of the Bill limits protection against copying to a period of 25 years, and Section 47 confers on the manufacturers and the performers the right to claim remuneration from radio and television organisations for the broadcasting of records. The same section provides that in the case of two or more performers participating in the same performance they may only make a joint claim to remuneration from the broadcasting organisation and that only through the intermediary of the record manufacturer.

A special provision in the Broadcasting Act of 11th June 1959 protects Danmarks Radio against commercial exploitation of its broadcasts. In order to make possible reciprocity agreements with other countries, this protection is now transferred to Section 48 of the Bill which provides that the authorisation of the broadcasting organisation shall be required, as regards its broadcasts, for:

(a) rebroadcasting by other organisations,

(b) taking of still photographs or fixation on records, tapes, films or other contrivances by which they may be reproduced,

(c) communication to the public for commercial purposes.

Protection for performing artists, record manufacturers and broadcasting organisations will in principle be subject to the same restrictions as copyright works, in respect, for example, of copying for private use, reporting

of current events and recording for deferred radio and television broadcasts.

Under Section 54 of the Bill, the Minister of Education is empowered to set up a committee to settle disputes regarding the fixing of remuneration in cases where the limited compulsory licence for works falling under copyright applies, as well as in respect of the equitable remuneration quoted under Section 47. The provision applies to all works, while the other protective provisions of the Bill concerning copyright *stricto sensu* is applicable only to works created by Danish nationals, by persons domiciled in Denmark or by stateless persons or refugees whose usual domicile is in Denmark. Protection against copying gramophone records, etc., is in general applicable irrespective of the country of origin of the record, while protection of performing artists applies only to performances carried out in Denmark, the provision granting remuneration for radio and television broadcasts of gramophone records applies only to records made in Denmark, and the protection of radio and television broadcasts is granted only to Danish transmissions. The Bill, however, includes the possibility of extending the provisions of the Act by decree to other countries, on condition of reciprocity.

In the terms of the Act of 11th June 1911, *photographs* have hitherto only been protected against reproduction for a period of ten years, protection being dependent on prior registration with the Ministry of Education. Very few such registrations have however been made.

Under the second new Bill, photographers are granted the exclusive right of reproduction without formalities. The person whose name, firm or generally known signature figures on the photograph is deemed to be the photographer.

Photographers are moreover granted both a right to have the integrity of the work respected and a right to claim authorship. The term of protection is fixed at 25 years.

Photographs may, without payment of a fee, be included in television or cinema newsreels for the purpose of reporting current events. Otherwise a complete compulsory licence is conferred on Danmarks Radio in respect of published photographs which, unless it is expressly prohibited, may be shown on television without the photographer's prior consent, against payment of a fee. In so far as television is entitled to use a photograph in its broadcasts, that is, in all cases where no prohibition has been made, the television organisation may transfer it on to film or any similar contrivance such as video-tape for use in its own broadcasts. Any dispute as to the amount of the remuneration shall be settled by a committee set up by the Minister of Education under the same provision as that applying to copyright.

The extent to which protection is granted to photographers is the same as in the case of copyright works. A further provision however lays down that photographs published by international organisations may be included within the sphere of protection of the Act.

The Bill will presumably become law on 1st January 1961, although it is as yet too early to say whether the Parliamentary debates will be concluded during the autumn of 1960.

News and Information

COUNCIL OF EUROPE

European Agreement on the Protection of Television Broadcasts. This Agreement, briefly summarised on page 35 of the last number of the Review and open for signature by the respective governments on 20th June, runs as follows:

" The Governments signatory hereto, being Members of the Council of Europe;

Considering that the object of the Council is to achieve a greater unity between its Members;

Considering that exchanges of television programmes between the countries of Europe are calculated to further the achievement of that object;

Considering that these exchanges are hampered by the fact that the majority of television organisations are presently powerless to restrain the re-broadcasting, fixation or public performance of their broadcasts, whereas the organisers of musical or dramatic performances or the like, the promoters of sports meetings and others make their consent to broadcasting to other countries conditional upon an undertaking that the relays will not be used for purposes other than private viewing;

Considering that the international protection of television broadcasts will in no way affect any rights of third parties in these broadcasts;

Considering that the problem is one of some urgency, in view of the installations and links now being brought into service throughout Europe, which already make it easy from the technical viewpoint for European television organisations to exchange their programmes;

Considering that pending the conclusion of a potentially universal Convention on the "neighbouring rights" at present in contemplation, it is fitting to conclude a regional Agreement restricted in scope to television broadcasts and of limited duration;

Have agreed as follows:

Article 1

Broadcasting organisations constituted on the territory and under the laws of a Party to this Agreement or transmitting from such territory shall enjoy, in respect of all their television broadcasts,

1. in the territory of all Parties to this Agreement, the right to authorise or prohibit:

(a) the re-broadcasting of such broadcasts;

(b) the diffusion of such broadcasts to the public by wire;

(c) the communication of such broadcasts to the public by means of any instrument for the transmission of signs, sounds or images;

(d) any fixation of such broadcasts or still photographs thereof, and any reproduction of such a fixation, and

(e) re-broadcasting, wire diffusion or public performance with the aid of the fixations or reproductions referred to in sub-paragraph *(d)* of this paragraph, except where the organisation in which the right vests has authorised the sale of the said fixations or reproductions to the public,

2. in the territory of any other Party to this Agreement, the same protection as that other Party may extend to organisations constituted in its territory and under its laws or transmitting from its territory, where such protection is greater than that provided for in paragraph 1 above.

Article 2

1. Subject to paragraph 2 of Article 1, and Articles 13 and 14 the protection provided for in paragraph 1 of Article 1 shall continue until the end of the tenth calendar year following the year in which the first broadcast was made from the territory of a Party to this Agreement.

2. No Party to this Agreement shall be required, in pursuance of paragraph 2 of Article 1, to accord to the broadcasts of any broadcasting organisations constituted in the territory and under the laws of another Party to this Agreement or transmitting from the territory of another Party longer protection than that granted by the said other Party.

Article 3

1. Parties to this Agreement may by making a declaration as provided in Article 10, and in respect of their own territory,

(a) withhold the protection provided for in sub-paragraph 1 *(b)* of Article 1;

(b) withhold the protection provided for in sub-paragraph 1 *(c)* of Article 1, where the communication is not to a paying audience within the meaning of their domestic law;

(c) withhold the protection provided for in sub-paragraph 1 *(d)* of Article 1, where the fixation or reproduction of the fixation is made for private use, or solely for educational purposes;

(d) withhold the protection provided for in sub-paragraphs 1 *(d)* and *(e)* of Article 1, in respect of still photographs or reproductions of such photographs;

(e) withhold the protection provided for in this Agreement from television broadcasts by broadcasting organisations constituted in their territory and under their laws or transmitting from such territory, where such broadcasts enjoy protection under their domestic law;

(f) restrict the operation of this Agreement to broadcasting organisations constituted in the territory and under the laws of a Party to this Agreement and also transmitting from the territory of such Party;

2. It shall be open to the aforesaid Parties, in respect of their own territory, to provide exceptions to the protection of television broadcasts,

(a) for the purpose of reporting current events, in respect of the re-broadcasting, fixation or reproduction of the fixation, wire diffusion or public performance of short extracts from a broadcast which itself constitutes the whole or part of the event in question;

(b) in respect of the making of ephemeral fixations of television broadcasts by a broadcasting organisation by means of its own facilities and for its own broadcasts.

3. The aforesaid Parties may, in respect of their own territory, provide for a body with jurisdiction over cases where the right of communication to the public referred to in sub-paragraph 1 *(c)* of Article 1 has been unreasonably refused, or granted on unreasonable terms, by the broadcasting organisation in which the said right vests.

Article 4

1. Fixations of a broadcast in which protection under this Agreement subsists, or still photographs thereof, as well as reproductions of such photographs, made in a territory to which this Agreement does not apply and imported into the territory of a Party to this Agreement where they would be unlawful without the consent of the

broadcasting organisation in which the right vests, shall be liable to seizure in the latter territory.

2. The provisions of the last preceding paragraph shall apply to the importation into the territory of a Party to this Agreement of still photographs of a broadcast in which protection under this Agreement subsists and of reproductions of such photographs, where such photographs or reproductions are made in the territory of another Party to this Agreement by virtue of sub-paragraph 1 *(d)* of Article 3.

3. Seizure shall be effected in accordance with the domestic law of each Party to this Agreement.

4. No Party to this Agreement shall be required to provide protection in respect of still photographs, or the reproduction of such photographs, of broadcasts made by a broadcasting organisation constituted in the territory and under the laws of another Party to this Agreement or transmitting from such territory, if the said other Party has availed itself of the reservation provided for in sub-paragraph 1 *(d)* of Article 3.

Article 5

The protection afforded by this Agreement shall apply both in relation to the visual element and in relation to the sound element of a television broadcast. It shall not affect the sound element when broadcast separately.

Article 6

1. The protection provided for in Article 1 shall not affect any rights in respect of a television broadcast that may accrue to third parties, such as authors, performers, film makers, manufacturers of phonographic records or organisers of entertainments.

2. It shall likewise be without prejudice to any protection of television broadcasts that may be accorded apart from this Agreement.

Article 7

1. This Agreement shall be open to signature by the member Governments of the Council of Europe, who may become Parties to it either by—

(a) signature without reservation in respect of ratification; or

(b) signature with reservation in respect of ratification, followed by the deposit of an instrument of ratification.

2. Instruments of ratification shall be deposited with the Secretary-General of the Council of Europe.

Article 8

1. This Agreement shall enter into force one month after the date on which three Members of the Council of Europe shall, in accordance with Article 7 thereof, have signed it without reservation in respect of ratification or shall have ratified it.

2. In the case of any Member of the Council of Europe who shall subsequently sign the Agreement without reservation in respect of ratification or who shall ratify it, the Agreement shall enter into force one month after the date of such signature or deposit of the instrument of ratification.

Article 9

1. After this Agreement has come into force, any European Government which is not a Member of the Council of Europe or any non-European Government having political ties with a Member of the Council of Europe may accede to it, subject to the prior approval of the Committee of Ministers of the Council of Europe.

2. Such accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the Council of Europe and shall take effect one month after the date of deposit.

Article 10

Signature, ratification or accession shall imply full acceptance of all the provisions of this Agreement; provided always that any country may declare, at the time of signature or of deposit of its instrument of ratification or accession, that it intends to avail itself of one or more of the options in paragraph 1 of Article 3 above.

Article 11

The Secretary-General of the Council of Europe shall notify Members of the Council, the Governments of any countries which may have acceded to this Agreement and the Director of the Bureau of the International Union for the Protection of Literary and Artistic Works:

(a) of any signatures, together with any reservations as to ratification, of the deposit of instruments of ratification and of the date of entry into force of this Agreement;

(b) of the deposit of any instruments of accession in accordance with Article 9;

(c) of any declaration or notification received in accordance with Articles 12, 13 or 14;

(d) of any decision of the Committee of Ministers taken in pursuance of paragraph 2 of Article 13.

Article 12

1. This Agreement shall apply to the metropolitan territories of the Parties.

2. Any Party may, at the time of signature, of the deposit of its instrument of ratification or accession, or at any later date, declare by notice addressed to the

Secretary-General of the Council of Europe that this Agreement shall extend to any or all of the territories for whose international relations it is responsible.

3. Any Government which has made a declaration under paragraph 2 of this Article extending this Agreement to any territory for whose international relations it is responsible may denounce the Agreement separately in respect of that territory in accordance with Article 14 thereof.

Article 13

1. This Agreement shall cease to be effective, except in regard to fixations already made, at such time as a Convention on " neighbouring rights ", including the protection of television broadcasts and open, amongst others, to European countries, shall have entered into force for at least a majority of the Members of the Council of Europe that are Parties to the Agreement.

2. The Committee of Ministers of the Council of Europe shall, at the appropriate time, declare that the conditions laid down in the preceding paragraph have been fulfilled, thereby entailing the termination of this Agreement.

Article 14

Any Contracting Party may denounce this Agreement by giving one year's notice to that effect to the Secretary-General of the Council of Europe.

In witness whereof, the undersigned, being duly authorised thereto, have signed this Agreement.

Done at ..... this ..... day of ....., in English and French, both texts being equally authoritative, in a single copy, which shall remain in the archives of the Council of Europe and of which the Secretary-General shall send certified copies to each of the signatory and acceding Governments and to the Director of the International Bureau for the Protection of Literary and Artistic Works."

I.L.O. — UNESCO — BERNE UNION

International protection of " neighbouring rights ". — It was announced some time ago in the *Review* (No. 59 B, p. 32) that the I.L.O., UNESCO and the Berne Union had decided on the joint convocation of a Committee of Experts to draw up a new draft international Convention for the protection of performers, producers of phonograms and broadcasting organisations, together with a general report setting out any minority opinions that might be expressed during the discussions in the Committee.

This Committee met as arranged in The Hague from 9 to 21 May 1960 on the basis of standing orders setting out in the form of articles the agreement which the three host international organisations had come to, and with a membership which had been determined by these organisations. Sixteen countries had each been invited to put forward four names to enable the three organisations to select two from each list. These countries were: Argentina, Belgium, Czechoslovakia, France, Federal Republic of Germany, India, Italy, Japan, Mexico, Netherlands, Poland, Sweden, Switzerland, United Kingdom, United States and Yugoslavia. These 32 experts possessed the right to vote, differing in this from the representatives of the private international organisations who, while unable to vote, were entitled to participate fully in the discussions and have their opinions placed on record.

Professor G. H. C. Bodenhausen *(Netherlands)* was elected by acclamation to occupy the Chair, a task of which he acquitted himself with an ability and skill of which there can surely be few precedents in the annals of conferences of this kind. Mr. Wallace *(United Kingdom)* was appointed Rapporteur-General, while M. Puget *(France)* presided over the Drafting Committee. The Secretariat was provided by the three intergovernmental organisations, the brunt of the work falling on M. Gérard Bolla *(Unesco)* and Mr. K. St. Grünberg *(I.L.O.)*, who performed their duties with a degree of efficiency that earned them the unanimous congratulations of the Committee.

It would be unnecessary to retrace the ups and downs in the Committee's deliberations, the happy outcome of which was a single draft Convention adopted by all the experts and seemingly regarded as satisfactory by the parties really concerned with the proposed protection. The General Report, which is to be published by the host organisations, accurately reflects the problems debated, the proposals advanced and sometimes rejected, and the hopes expressed and often frustrated. It also mentions a proposal submitted by certain experts, of which more anon. However, for the information of our readers it will suffice to summarise the draft instrument itself, though without endeavouring to place any interpretation upon it until it has been closely studied by the appropriate authorities of the EBU. It may first be noted that in the absence of the Inter-American Association of Broadcasters and the OIRT, the EBU was the only direct spokesman for broadcasting among the international organisations invited. Though they took an active part in the Committee's proceedings, the EBU representatives had it recorded in the minutes that the member organisations of the EBU retained full freedom of decision with regard to the draft Convention which had been prepared, and that they were similarly not bound by the remarks of delegates of our Union.

Perusing the seventeen Articles drawn up by the Committee in order (and disregarding the final clauses, which were neither discussed nor committed to writing), it will be seen that the draft is, by implication, divided into several chapters to which the following titles might be

applied: relations with copyright (Articles 1 and 2), national treatment (Article 3), definition of the country of origin (Article 4), protection of performers (Articles 5, 6 and 7), protection of producers of phonograms (Articles 8, 9, 10 and 11), protection of broadcasters (Article 12), term of protection (Article 13), " small exceptions " (Article 14), reservations (Article 15), relations with cinematographic works (Article 16) and retroactivity (Article 17). It will also be noticed that the terminology is neither exactly that of the Geneva draft nor that of the Monaco draft, since the earlier expressions " recorder " (Monaco) and " manufacturer of phonographic records " (Geneva) have been replaced by " producer of phonograms ". The Committee also agreed to adopt the Geneva expression " *organisme de radiodiffusion* " in the French text and the Monaco expression " broadcaster " in the English text, considering the two as equivalent. As to its contents, the new draft lies about midway between the two earlier drafts, borrowing certain provisions from one or the other and adding new ones that were hitherto absent from both the previous drafts. The reader will notice that the protection of broadcasters partly overlaps that provided by the European Agreement for the Protection of Television Broadcasts, sponsored by the Council of Europe, without however giving the same breadth of protection as the latter instrument on certain points. It follows that the European Agreement has lost nothing of its usefulness as a temporary, " stop-gap " arrangement, and that States would be ill-advised to withhold their ratifications until such time as the wider Convention governing " neighbouring rights " as a whole is accessible to them.

Under **Article 1** of the Hague draft, the Convention will be effective in respect to those Contracting States which are parties to the Universal Copyright Convention or members of the International Union for the Protection of Literary and Artistic Works. **Article 2** adds, as did the two preceding drafts, that the proposed protection leaves intact and in no way affects the protection of the rights of authors, and that none of the Convention's provisions could be interpreted as prejudicing such rights.

According to **Article 3** each Contracting State must grant to performers, producers of phonograms and broadcasters, in respect of their productions originating in another Contracting State, the same protection which it grants to its own nationals in respect of similar productions made or services rendered on its territory. It follows from this national-treatment clause that the Convention is not applicable in the country of origin, and that it deals only with " international situations ", just as the Monaco draft did.

Generally speaking, territoriality is the criterion for the country of origin as defined in **Article 4**, with one sole exception in the case of unpublished phonograms. The country of origin of performances is the country where the performance took place. In the case of published phonograms the country of origin is the country of first publication, subject to possible adjustment through the working of simultaneous publication provisions as in the Berne Convention. Unpublished phonograms are deemed to originate in the country where the first fixation of sounds was made, provided it was made by a national of a Contracting State. Broadcasts qualify for protection under the Convention by two alternative tests: the country of origin is either the country where the " broadcaster " has its headquarters or the country where the broadcast is transmitted; any Contracting State may, in a diplomatic declaration, require as a condition of protection for broadcasts that the two criteria be met on one and the same territory. It should be added that the country of origin of a performance that takes place in a non-contracting State but is made into a phonogram or broadcast will be one or other of the countries regarded as the country of origin of the phonogram or broadcast in question. This latter corrective, which is borrowed from the Geneva draft, will obviate certain injustices and make for easier application of the provision concerning secondary uses.

Protection for performers is formulated in **Article 5** in such a way that there will be nothing to prevent the domestic law from following the example of the United Kingdom and granting penal protection rather than property rights. The draft accordingly does not speak of a right in the performers to authorise or prohibit, as it does in the case of the producers of phonograms and the broadcasters, but uses a neutral form of words taken from the Monaco draft, to the effect that " the protection provided for performers by this Convention shall include the possibility of preventing... ". The acts which can be so prevented are the unauthorised fixation, broadcasting and communication to the public of live performances, the unauthorised fixation of live broadcast performances and the reproduction without consent of a fixation of the performance if the fixation itself is unlawful, if the reproduction is made for purposes different from those for which the performers had given their consent, or if the fixation was made under the fair-dealing " small exceptions " provided for in Article 14 and reproduced for purposes different from those contemplated in such exceptions.

It will be a matter for national laws and regulations to regulate the protection against rebroadcasting, fixation for broadcasting and the reproduction of such a fixation for broadcasting purposes, if broadcasting is consented to by the performer. This provision is designed to take the place of the presumption which appeared in Article 4 (4) *(a)* of the Geneva draft, while the provision in Article 4 (4) *(b)* of that draft has been expressed more concisely, it being stated in the new draft that the terms and conditions governing the use by broadcasters of fixations made for broadcasting shall be fixed in accordance with national laws and regulations.

Each Contracting State may specify the conditions under which performers taking part in collective perfor-

mances are to exercise their rights **(Article 6)**. Under the provisions of **Article 7** the Convention will apply only to performances of literary or artistic works, though national laws and regulations may extend the protection to " artistes " who do not perform such works.

Article 8 gives producers of phonograms the right to authorise or prohibit the copying of their phonograms, either directly or when broadcast. If a phonogram published for commercial purposes, or a reproduction of such a phonogram, is used directly by a broadcaster or for any method of communication to the public, a single equitable remuneration is to be paid by the user to the performers, to the producers of phonograms or to both. In the absence of agreement, national laws and regulations may lay down the conditions as to the sharing of this remuneration **(Article 11)**. Any Contracting State may, however, specify at the time of ratification or accession, and subject to reciprocity requirements which the other Contracting States may apply, that it does not intend to be bound by Article 11 as a whole, or that it desires to restrict remuneration for secondary uses to a particular method or methods of use.

Following the example of the Monaco draft, **Article 9** of the new draft allows for the possibility of formalities being required in the case of phonograms and reduces them to the symbol *P*, accompanied by the name of the Contracting State in which the first publication took place and the year date of such first publication.

Article 10 contains the definitions of the expressions " phonogram ", " producer of phonograms " and " publication ". With regard to the definition of " publication " it will be noted that it embraces both the multiplication of copies of the phonogram and the offering of such copies to the public in reasonable quantity. It goes without saying that these two acts must take place in the same Contracting State in order to qualify for protection under the proposed instrument.

According to **Article 12** broadcasters will enjoy the right to authorise or prohibit the rebroadcasting and the fixation of their sound and visual broadcasts, the reproduction of unlawful fixations or of fixations made in accordance with one of the " small exceptions " and reproduced for purposes other than those contemplated by the exception in question, and the communication to the public of their television broadcasts if such communication is made in places accessible to the public against payment of an entrance fee. The conditions in which the latter right may be exercised are left to the discretion of each Contracting State, which incidentally may declare, in virtue of **Article 15**, that it will not apply, or will apply only in part, protection for broadcasts, subject to the right of other Contracting States to claim the benefits of reciprocity.

In conformity with the principle of national treatment, the term of protection will be that granted by the law of the country where protection is claimed, each State having the option of imposing the " comparison of terms ", i.e. restricting the term of protection to that given in the country of origin. However, the minimum term of protection is twenty years **(Article 13)**.

The so-called " small exceptions " dealt with in **Article 14** and applying to all three classes of protected services, relate to private use, reporting, ephemeral recordings and teaching.

Article 16, which is patterned on Article 6 of the Monaco draft, provides that with the exception of the protection of broadcasts and the majority of the clauses dealing with the protection of performers, no provision of the instrument may be interpreted as applying to the copying or any use of motion pictures or other visual and audio-visual fixations.

Lastly, **Article 17** rules out retroactive application by declaring that the instrument is without prejudice to rights acquired in a Contracting State prior to the coming into force of the Convention in such a State.

As stated above, the General Report refers to a proposal submitted to the Committee by various experts, including those of the United States, the United Kingdom and Japan, which envisages a Convention in two parts, a Part A comprising only an undertaking by States to grant national treatment, and a Part B setting out the draft prepared by the Committee. The idea of its sponsors is that States should in any event ratify Part A but could leave aside Part B, so that ratification would be easier on a universal plane, even for countries not wishing to bring their protection for " neighbouring rights " up to the level envisaged by the Committee of Experts, i.e. by Part B. This proposal as a whole was not put to the vote as it had come in for some rather sharp criticism, particularly as to the relationship that would exist between countries in group A and countries in group B, for which the operation was likely to be a fool's bargain, on account of the principle of national treatment. However, the Committee decided unanimously to include the proposal as an annex to the General Report as an expression of the views of its authors.

It is hoped to be able to reproduce in the next issue of the *Review* the official text of the draft summarised above, and later on to publish articles on the interpretation of this instrument.

BRITISH COMMONWEALTH

British Commonwealth Broadcasting Conference. — A general report on the activities of the fourth Commonwealth Broadcasting Conference at New Delhi was published in the March issue of the *EBU Review* and the present note is only intended to deal with the discussions on legal matters.

The question of contractual relations with artists was discussed by the Conference and there did not seem to be many difficulties. It appeared from the discussion that

in most of the member countries artists are not organised in unions to the same extent as in the countries of Western Europe.

Questions relating to copyright were considered by a Committee under the Chairmanship of Mr. Gideon Roos, the Director General of the South African Broadcasting Corporation. This Committee discussed relations with performing right societies and it decided not to recommend any common basis of payment to these societies as the methods of payment differ very much and depend to a large extent on local conditions. There was the further point that a number of member organisations make considerable use of non-western music which falls outside the scope of these societies.

It appeared from the discussion that only a minority of member organisations had agreements with bodies controlling the right to record music, but in cases where such an agreement was necessary the Committee considered that the agreement recently made by the BBC with the MCPS and BIEM jointly was a satisfactory precedent. The Committee felt that, if possible, negotiations should be carried out with one body to cover all music and thought that it would be desirable to deal with one organisation for both performing and mechanical rights.

The Committee noted that most member organisations did not have agreements with authors' societies and that, where agreements did exist, they usually stipulated only minimum rates of payment which were not binding on the members of such societies.

There was an interesting discussion on the broadcasting of gramophone records and it appeared that there were considerable differences between the systems operating in various Commonwealth countries. In Canada no payment was made for the broadcasting of gramophone records, either in commercial or non-commercial programmes. In Australia payment was made for the use of such records in non-commercial services, but commercial stations made no payment. In other member countries payment was made for either use. In most cases payment was calculated on the basis of the number of listeners, but some organisations made annual lump sum payments not related to the number of records broadcast, the number of licences current, or the playing time allowed. In view of the widely differing circumstances the Committee felt that it should be left to each member organisation to negotiate the terms most suitable in the particular country. The Committee also recommended that member organisations should endeavour to ensure that any future legislation in their respective countries should incorporate the principle that the right of the record manufacturer to authorise or prohibit the use of a record should be restricted to the prevention of copying or pirating of the record, but that the manufacturer should be entitled to an equitable remuneration for the broadcasting of his record. The Committee discussed recent developments in regard to the draft international convention for the protection of ancillary rights and recommended that all member organisations should take steps to ensure that their interests were adequately represented by the persons nominated by their Governments to attend the forthcoming committee of experts at The Hague.

The Committee noted that new Copyright Acts had been adopted by the United Kingdom in 1956 and by India in 1957, and that fresh copyright legislation was being considered in several other Commonwealth countries. In Canada and New Zealand copyright reports had been issued, and in Australia a report was expected shortly. In Ghana a draft copyright bill had been prepared and a working party of the Committee considered this draft. It made certain observations for submission to the Government of Ghana dealing with matters of importance to broadcasting, such as the use of ephemeral recordings, gramophone records and still photographs taken from the television screen.

Finally the Committee welcomed a suggestion from the EBU Administrative Office that associate members of the EBU who were member organisations of the Conference should consult the Administrative Office about any legal questions on which they might require advice.

E. C. R.

ITALY

Employment status of "star" performers. — Considerable interest attaches to a judgment of the Rome Court of Appeal of 29th December 1958 (reported in *Il diritto di autore*, 1959, p. 400) in which the Court, referring to the employment status of moving picture actors, laid down certain principles which, if they are right, should logically hold good for television artists as well, or at least those appearing in telefilms. According to this judgment the relationship between film maker *(produttore)* and performer (even a "star"—in the case in point the celebrated Italian actress Rossana Podestà) is a relationship of *master to servant*, and services rendered thereunder are work done in the course of employment, despite the artistic (or indeed creative) activity involved, where the distinctive features of such work are present, viz. *attendance* at the employer's place of business, *subordination* to him, and *remuneration*. These features are met with in the case of the film actor because he performs his work in the film maker's own undertaking under the artistic, technical and administrative direction of the film maker or of persons duly appointed by him. The consequence of this is to make applicable to film actors, even to "stars", and for that matter to stage actors as well, the entire body of law governing "subordinate work", i.e. employment, including among other things the rules and regulations on *placement*, which in Italy are laid down in the Act of 29th April 1949 (No. 264), under which workers may not be taken on by employers

except through the agency of the public offices for that purpose, private go-betweens being forbidden. The Act itself provides for exceptions, but the judgment rules out the possibility of these relating to performing artistes irrespective of their standing. Contracts concluded by the latter through the intermediary of agents or even, as the judgment states, through the medium of private representatives, will therefore be null and void.

The findings of the Court are in conformity with the precedents of the Italian courts, beginning with the Supreme Court, which similarly held in a judgment of 9th January 1957, No. 32 (reported in *Il diritto di autore*, 1958, p. 225) that a film actor, whatever the importance and the artistic level of his rôle in the film, must always be regarded as an employee, i.e. as being bound to the film maker by a *locatio operarum* and not by a *locatio operis*, and as not being independent of the organisational planning and managerial judgment of the film maker himself or of persons acting on his behalf. Even before this the same Rome Court of Appeal had given a decision to the same effect in its judgment of 20th May 1955 (reported in *Foro Padano*, 1956, II, p. 904). Even the *regista*, the artistic director, has been held by the Italian Supreme Court to be a salaried employee (*vide* judgment No. 1411 of 5th June 1950, even though the same Supreme Court in a later decision No. 2507 of 2nd August 1955 had occasion to rule that a film director was not subject to the rules stipulated in the collective labour agreements).

A different approach has prevailed in various French decisions such as that of the Paris Court of Appeal (14th June 1950, reported in *Il diritto di autore*, 1951, p. 131, and in *Gazette du Palais*, 1950, 2, 78), which denied that the duties of the *metteur en scène* are compatible with the status of a salaried employee. However, according to Le Tarnec, *Manuel juridique et pratique de la propriété littéraire et artistique*, Dalloz, 1956, § 224, " dans la pratique c'est par des contrats de louage de services que les metteurs en scène sont liés aux producteurs ".

This is not the place to expatiate on the merits of this question, but one cannot but express some misgivings as to the soundness of the decision handed down by the Rome Court, in particular when one considers the categorical and sweeping language in which it is couched. One can perhaps admit that services of great artistic merit or even services of an original (i.e. creative) character are not on the face of it incompatible with the master-to-servant employment relationship, or in other words the *locatio operarum*. But it is baffling to hear it asserted that the test of employee subordination can and indeed must be sought *in the mere fact* that the " star " renders his or her services on the premises and within the ambit of the business organisation which has engaged him or her, and under the direction of whoever has been appointed by that organisation to bring about a complex artistic performance, whether it be the making of a cinematograph film or telefilm or the staging of a theatrical show or symphony concert (as is true in the latter case of the performance of a " soloist ", for instance). Even the service rendered by a free-lance exponent of one of the professions or the arts, i.e. the provision of some independent service, may require to be performed on the premises of the principal in order to achieve the desired ends; it may need to be done with the facilities of the principal, and possibly in conjunction with other independent or subordinate services, in which case it will necessarily be done under common direction and co-ordination. But these circumstances are not *in themselves* such as to confer on an occupation the character of employment properly so called, nor to invest the person who follows it with the status of an employee; it would seem that for this to be the case, it is necessary that the person performing the work *be embodied in the general hierarchical and disciplinary framework of the undertaking*, in such a way that his or her submission to a directing or co-ordinating authority does not merely constitute a technical means or a necessary condition for the performance of the task he or she has accepted, and does not have its *raison d'être* solely in the fulfilment of that task.

From this point of view a solution to this problem should be sought in the light of other considerations such as the standing of the performer in each individual case, and not on the basis of the arbitrary and rigid principle laid down by the Rome Court of Appeal. This principle cannot but lead in certain cases to peculiar, not to say fantastic, conclusions: for instance that artists of the stature of Maria Callas, Ingrid Bergmann, Gary Cooper, Gina Lollobrigida and the like are subject to the provisions of the Placement Act, 1949, and consequently cannot make use of agents or representatives for the purpose of concluding their contracts.

P. G.

Relations between the authors and the SIAE concerning the exercise of pecuniary rights. — The Rome Court of Appeal, in a judgment of 7th October 1958 (reported in *Il diritto di autore*, 1959, p. 83), had occasion to decide an issue as to the validity or otherwise of licences to use works of the intellect granted by the copyright proprietor in person, and not through the intermediary of the Società Italiana degli Autori ed Editori (SIAE), of which he was a member.

The circumstances of the case, as they appear from the judgment, were as follows. The action concerned a " revue " show consisting of a literary part and a musical part. The musical element was made up either of original music specially written for the revue or of excerpts of *existing* music, suitably chosen and arranged for the show. The whole of the revue, both the literary part and the musical part, was identified, the former in the *copione* or script, and the latter in the " declaration statement ", both of which were deposited with the SIAE. A theatrical production company, the Società Anonima Italiana Aziende Teatrali (SAIAT), accordingly applied to the SIAE to secure a licence to use the said " revue "

for its theatrical shows, and a licence for the " revue ", in the precise form specified above, was granted by the SIAE and a fee was charged. It so happened, however, that the proprietor of the copyrights in other musical compositions, also a member of the SIAE, authorised the SAIAT to use some of his tunes in the performances of the revue in question, even though they were not included in the relevant " declaration statement ", claiming not only that such performance was legitimate without any obligation on the SAIAT to pay any corresponding fee to the SIAE, but also that he was entitled to figure, along with the composers of the tunes belonging to the revue, in the share-out of the fees for such tunes (as fixed by the SIAE).

The latter claim was bound to be—and indeed was—dismissed by the Rome Court, which observed that any performance of a work over and above those contained in the revue for which the SIAE had granted a licence to the SAIAT and calculated the corresponding fee, fell outside the licence and obliged the SAIAT, which had thus used another work, to pay a separate fee for that work.

The Court also rejected the first claim on the grounds that " when the copyright proprietor is a member of the SIAE and has accepted the status of membership by the very fact of his application to join, he must abstain from all and any activity on his own behalf, and cannot grant licences for the use of his own works even free of charge, the enforcement, management, fee-collection etc. in respect of rights in these works being a matter for the SIAE alone ".

These propositions in the judgment in question, which incidentally might not be right at all if they were taken literally, in any event require clarification in the light of the Italian laws and regulations—which are by no means simple and indeed are rather complicated—governing the relationships between the SIAE and the copyright proprietors as regards their power to dispose of such copyrights.

Readers will be aware that the SIAE enjoys a statutory monopoly in carrying on the business of an *intermediary* in contracts relating to a wide area of the pecuniary rights that accrue to authors and their assigns, namely the rights of stage performance, other performance, recitation, broadcasting and mechanical and motion-picture reproduction of copyright works in their care. This is laid down in Article 180 (1) of the Act of 22nd April 1941 (No. 633), which further adds that the said business shall be deemed to include every form, whether direct or indirect, of " intervention " (i.e. acting as a go-between) between copyright proprietors and users of the works, viz. agency, mandate, representation and " also assignment ". On the face of it, it might seem (and it has seemed to some) that the author would be debarred from *ceding*, in the true sense of assigning away, his rights to third parties other than the SIAE. But this cannot be the case, because the dominant theme in Article 180 is the notion of the *intermediary*, and it is only in this business that the SIAE has a statutory monopoly. Moreover, it is well known that a monopoly, as an institution of *jus singulare*, is not amenable to wider interpretation. It must therefore be inferred that the provision in question, where it relates to *assignment*, was meant to refer to the sole case in which a form of brokerage, albeit indirect, is brought about by way of assignment, i.e. when the assignment is made in favour of a person who becomes the assignee of the copyrights with a view to sub-assigning or sub-licensing them to third parties, or in other words in favour of someone carrying on the business of a *middleman* in the exploitation of such rights in the way of trade.

Moreover, the fact that the power to assign the copyrights directly to third parties (other than intermediaries) is at all times reserved to the copyright proprietor is confirmed by all the laws and regulations on the subject. It is confirmed by the above-mentioned Article 180 itself, which is careful to specify, in paragraph 4, that the powers granted exclusively to the SIAE in paragraph 1 *are without prejudice to the right inhering in the author and his heirs and assigns* to exercise their rights in person (thus including in the enumeration of possible proprietors not only successors *mortis causa* but also successors by conveyance *inter vivos*, or in other words assignees; the only less favourable treatment meted out to the latter is that, pursuant to Article 183, they are not exempted from the requirement of ministerial authorisation for the so-called "placement" of non-musical dramatic works with theatrical companies and producers). It is confirmed by Article 8 of the Statutes of the SIAE (approved by Presidential Decree No. 643 of 16th April 1948), which allows authors or composers to be members of the SIAE *even if they have wholly assigned away* the pecuniary rights in their works, provided that the latter have been entrusted to the SIAE for protection *by the author's assigns*. It is further confirmed by Article 33 of the SIAE's General Regulations, which presupposes by implication that assignment is legitimate by specifying that any *assignment of the copyrights* in one or more works entrusted to the SIAE must be reported to the Society by the assignor and that protection by the said Society will cease in respect of the copyrights thus assigned solely in the event that the *assignee* declares that he does not wish to avail himself of such protection. (There are other regulations to the same effect, e.g. Article 70 of the Regulations.)

On these premisses, the power vesting in the proprietor of the pecuniary rights to dispose of them in person abates, or rather remains in abeyance, only as the result of voluntary acts performed by him vis-à-vis the SIAE. A perusal of the Statutes and the Regulations shows that such acts are basically two in number, viz. application for membership in the SIAE, and declaration of the work or works it is intended to entrust to the Society for administration, generally by way of agency. Such administration normally involves the granting of licences or authorisations to

exercise the rights of exploitation mentioned in Article 180 (1) of the Act (cf. also Article 3 of the Statutes, together with Articles 20, 35, 41 and 63 of the Regulations with the addition of broader rights, cf. Articles 78 and 86), the collection and distribution of the proceeds therefrom, the protection against possible infringements of copyright, etc.

Membership of the Society is, without a doubt, the necessary preliminary before such a mandate can be conferred upon it (and it may be argued that the Society —on the basis of Article 2597 of the Italian Civil Code, *re* the obligation of statutory monopoly holders to contract and to give equal treatment to all users of monopoly services—cannot withhold such membership, provided of course that applicants fulfil the prescribed conditions); it is also clear that important legal effects flow from the mere act of taking out membership (such as payment of " membership " fees, compliance with the general obligations and certain restrictions in the Statutes and Regulations designed to avoid clashes between the various pecuniary rights: cf. Articles 10 and 13 *bis* of the Statutes, the possibility of becoming " associates " after five years: cf. Article 46 *bis* of the Regulations, etc.).

On the other hand, it would not seem that the mere act of joining is sufficient in itself to divest the copyright proprietor of the power to dispose of his own rights in person and to vest it in the SIAE, as one might think from the above-mentioned statements to be found in the judgment of the Rome Court. Article 11 of the Statutes and Article 23 of the Regulations provide that the " *inscritto* " (the member, as distinct from the associate) must present a declaration to the SIAE, worded in accordance with the Regulations, in respect of any work he intends to entrust to the Society for administration, and that a special declaration statement must be drawn up for each work and must identify it. It is true that Article 12 of the Statutes lays down the principle that " membership of the Society has the effect of *entrusting* the exclusive protection of the work to the Society ", but it expressly adds that " the work " means a work which has been declared to the Society within the meaning of the preceding Article 11. For the purpose of so entrusting the work, therefore, the declaration statement may be taken to be an essential constituent of enrolment in the Society. This is borne out by Articles 27 and 28 of the Regulations, the first of which says that the Society, after having allocated the work so declared to the appropriate section, assumes the exclusive protection thereof, whereas it does not assume responsibility for the protection of rights in works that have not been declared in due time; the second imposes various prohibitions on the member which come into force *through the effect of the protection, assumed as above*, including a prohibition on *issuing licences to use the rights*, even free of charge, or in other words a prohibition on disposing in person of the rights in question. (It is of interest to note that even after the work has been declared, a member is still at liberty to exercise in person any right accruing to him to " place " the work with theatrical companies or enterprises, or with broadcasting organisations or other users, in which case the granting of licences by the SIAE is parallel to and conforms to the concession granted by the member in respect of the placement: cf. on this matter the various provisions of Article 183 of the Act and Article 60 of the Regulations for the implementation of the Act, together with Articles 21, 36, 37, 43 and 65 of the SIAE Regulations.)

It is true that a member who applies for the SIAE's protection may be under a more or less extensive obligation (depending on the various classes of works and the corresponding sections of the SIAE) to declare all works intended for use by the public in which he has or may subsequently acquire a copyright. Above all, however, an incomplete declaration in such cases will certainly have the effect of laying the member open to the disciplinary penalties laid down in the Statutes and the Regulations for non-compliance with those general obligations which flow directly from the act of enrolment (Articles 10 and 17 of the Statutes), but not the effect of depriving him of the power to exercise validly the copyrights in undeclared works towards third parties (e.g. in the case decided by the Rome Court, towards the SAIAT, supposing the works in question to be undeclared works).

In the second place, even when the above-mentioned obligation to include in the declaration all his works is operative (as in the case of musical and dramatic works, operettas, revues, literary works and works of figurative art), the member retains to varying degrees the faculty of reserving to himself the administration of certain rights and of not entrusting them to the SIAE, or even of excluding certain works entirely. As regards the music section, for instance, it is laid down in Article 42 (2) of the Regulations that the Society will exercise control of the rights of mechanical reproduction *only at the member's request* and that such control will be limited to those uses (records, films, etc.) which are specified by the member himself; Article 64 contains similar provisions for works in the section for dramatic works, musicals and revues, while in the case of literary and artistic works, the member may limit the mandate to one or more rights or types of use or, in the case of publishing rights in print (which incidentally lie outside the sphere of the monopoly provided for in Article 180 of the Act), to specified works only (Article 82). It should also be remembered that in the operatic and dramatico-musical section there is no obligation to extend the declaration to all works, while in the case of cinematographic works, Article 89 merely requires a producer who seeks SIAE protection to declare a minimum number of films (two feature films *or* 10 shorter films, or alternatively one feature film *and* five short films).

P. G.

Book Reviews

Bedenken zum Urheberpersönlichkeitsrecht, by Professor Alois Troller, of the University of Fribourg *(Switzerland)*. Verlag für angewandte Wissenschaften, Baden-Baden, 1959.

Urheber- und Verlagsrecht, by Professor Eugen Ulmer, of the University of Munich. Second revised and enlarged edition. Springer, Berlin, Göttingen and Heidelberg, 1960.

In the collection of monographs put out by the UFITA *(Archiv für Urheber-, Film-, Funk- und Theaterrecht)*, with which readers of the Review will be familiar, Professor Troller recently published a study which he entitled (if I may venture to make a free translation) "Considerations on the *droit moral*". A timely work, indeed. Over a number of years the recognition of a "moral right" was a subject which gave the lawyers particular satisfaction. Writing in 1928, after the Rome Literary and Artistic Conference, Piola Caselli said that Article 6 *bis* of the revised Berne Convention "in its modest appearance sets over against the materialistic trends that dominate contemporary society the right to enforce respect for the intellectual ideals for which thousands of writers and artists, these artisans of real progress in civilisation, toil and suffer and struggle—nay, the ideals for which they give their lives, for a man can fall in action elsewhere than on the battlefield; he can fall at his desk, in the anguishing fatigue of the unattained ideal". In the inter-war years there was a kind of surge of legal lyricism on the subject of the *droit moral*. Jules Destrée, the Aristide Briand of Belgium, contributed his eloquence to this high-minded movement of ideas which enhanced the immaterial interests bound up with works of the mind. But it gradually came to be realised that, as with all human institutions, the *droit moral* was open to abuse. Cases occurred where an author traded away his professional honour, taking money for not protesting against a distortion of his work by the cinematograph. Behaviour of this sort is not an argument against the *droit moral*, but it doubtless led the copyright experts to take a closer look at the precise implications of a right which loses some of its halo in the hurly-burly of everyday life or (if you will) is cut down to size by realities.

As an emanation from the author's personality, it is often said that the *droit moral* is inalienable. In the abstract, this maxim has a lot to be said for it. It is only when one tries to define what it means that reservations and exceptions are seen to be inevitable. Since the *droit moral* comprises both the right of the author to claim the paternity of his work and the right to preserve the work inviolate, it is easy to see that the principle will put up with quite a lot of stretching. Generally speaking, it is inadmissible that someone should pass himself off as the author of a given work; however, if the author does not wish his identity to be known, or if he wants another to take his place in the eyes of the public, this voluntary waiver of one aspect of the *droit moral* is fair enough. It may be that the device of paying a writer in order to assume the borrowed plumes of authorship of the work to be written is not a particularly creditable one for the person who thus purchases the talent of another, but to assert that it is contrary to public policy or to the rights attaching to the person (cf. Article 19 of the Swiss Federal Code of Obligations) would be unduly to restrict freedom of contract. I recall a young gentleman better endowed with money than brains who got his doctorate thesis written by a young scholar who was only too glad to do this work for a fee that implied relinquishment of his right of paternity. In literature, ghost-writers are not a new phenomenon.

Here, then, we have a situation which clearly affects the *droit moral*. It will be noticed that it does not involve any inroads upon the integrity of the work, though in this area, too, it is possible to waive the *droit moral*, as is shown by certain practices mentioned above to which the cinema has given rise. The inalienable *droit moral* loses a feather or two when it descends from the peaks of theory to the lowlier regions of practice. What is interesting, or rather disquieting, about this is the immoral effect sometimes produced by the exercise of the *droit moral*—immoral in the sense that the author uses this right to sanction a blatant infringement of the *droit moral*. Professor Troller is right in urging caution and clearsightedness. *Corruptio optimi pessima*. By setting the *droit moral* on too lofty a pedestal there is a risk of encouraging those who would like to use it for purposes which its champions had never intended and would certainly deprecate.

* * *

In Germany copyright has always been a favourite topic for the legal theorist, and in fact several of the most eminent among German jurisconsults of the 19th century, Joseph Kohler, Otto von Gierke, Klostermann, Riezler and Kuhlenbeck, drove their individual furrow in this fertile field. Later, German copyright legislation was discussed by Marwitz and Möhring and above all by Philippe Allfeld, whose commentaries are models of accuracy and scholarship. More recently, at the end of the second World War, two important works over the names of Kurt Runge and Eugen Ulmer heralded the arrival of a new generation in the lists. The analysis of laws section by section is discarded in favour of a

systematic treatise, though Runge is more discursive than Ulmer, whose concentrated vigour managed to cover the whole subject in a single 340-page volume published in 1951. This remarkable feat of conciseness the author repeated nine years later by publishing at the beginning of 1960 a revised second edition, brought up to date with case reports and new currents of ideas. In so doing, he has made the work more voluminous (by about a third), but he embraces a considerably larger body of facts and problems. The result is a quite outstanding achievement: not only does Professor Ulmer explain the existing law with full references to theory and practice, but he also has made it his business to analyse the recent draft revisions of the law, i.e. the so-called *Referentenentwürfe* produced by the Ministry of Justice consultants in 1954 and the 1959 *Ministerialentwürfe*, a modified version of the 1954 proposals to which the Ministry has attached its name. The documentation thus brought together in one volume, and Professor Ulmer's pertinent comments thereon, add even more to the value of the study. A work of this kind is not something one would read from cover to cover like a detective story or a popular digest of science or history; the wealth of detail and discussion make it not only a textbook but a storehouse of practical solutions, which supplement and illustrate the author's general disquisitions. A very carefully prepared alphabetical index enables the reader to locate the passages which Professor Ulmer devotes to the major problems covered in his subject, and even various more limited references.

The chapter on *droit moral* (which has been entirely re-written) is an excellent specimen of the method he has followed. The " *sedes materiae* " is in the middle of the book, after the chapter on the rights of user which the textbooks lump together under the generic title of " pecuniary rights ". The various aspects of *droit moral* are reviewed, and in the process the author gives a gloss on the *lex lata* and recalls the controversy that has arisen around the sections under consideration. He will discuss, for instance, whether the right to publish a work is a separate personal right, a specific power attaching to the *droit moral*, as Gierke thought, or whether publication does not set in motion the whole of copyright, both *droit moral* and pecuniary rights. The *lex ferenda* (the 1959 *Ministerialentwurf*) opts for the latter solution, as Ulmer duly informs his readers. In making his work public the author exercises both his moral and his pecuniary right, and this pecuniary right may, if so desired, be parcelled out for a specific form of publication to the exclusion of others. But the *droit moral* does not abate with publication; one might almost say far from it. Its characteristic aspects appear when publication, although consented to, entails unforeseen consequences likely to detract from the author's honour or reputation. The first things that come to mind are the alterations the work may undergo through the act of publication, and while there are some which ought not to worry us unduly in all the circumstances, it is plain to all that the author has a right to demand that his thoughts be faithfully presented to the community whose goodwill he is seeking. This protection against genuine distortions is in a sense the classical form of *droit moral*, as well as being the most obvious.

But the advance in legal intuition has led the lawyers to consider a complementary and psychologically more subtle contingency, that of a change in the author's convictions. In such a case the withdrawal of a work which has ceased to be a true reflection of the author's personality is nowadays thought to be justified. This right of withdrawal is proposed in the 1959 *Ministerialentwurf*; it already exists by implication in France where section 32 of the Literary and Artistic Property Act, 1957, gives the author the power to cancel a licensing agreement without giving a reason, provided that he first indemnifies the other party. Akin to withdrawal on account of changed convictions is withdrawal predicated on total or partial non-utilisation of the licence. When such utilisation has been stipulated for as an *essentiale negotii*, withdrawal can be effected in virtue of the ordinary law (Article 326 of the German Civil Code) or of the law on publishing (sections 30 and 32 of the Act *ad hoc*). However, copyright agreements do not always make it compulsory for the licensee to exercise the rights granted therein. What then happens if the stalemate drags on ? Although the author cannot enforce utilisation that has not been covenanted for, it would not be fair to leave him powerless against a licensee who denies him indefinitely the realisation of his expectations. This is why the legislator in such a case allows the author to assert a right of withdrawal and to recover the use of the right that had been granted to no purpose. Of course, indemnities will be required, and the exercise of the right of withdrawal presupposes that the immaterial interests of the author are really at stake.

Withdrawal motivated by the author's changed opinions and withdrawal due to the passivity of the licensee are identical in their effects but dissimilar in their sources. This did not escape Professor Ulmer, who terms the first " Widerruf " and the second " Rückruf ". " Widerruf " contains the idea of retraction in the sense of disavowal, while " Rückruf " is a calling-in, a return of the work to its creator. These terminological niceties ought to be copied by the law-makers (the *Ministerialentwurf* uses the word " Rückruf " all through; the French speak of *repentir* and *retrait*, though in this context *repentir* is not necessarily the consequence of *péché*).

Basically, the main aim of the *droit moral* is to preserve the integrity of the work, as a mirror of the mind and soul of the author. The claim to authorship, the possibility of withdrawal if the convictions expressed no longer correspond to the author's present beliefs and its converse of protection against distortion of the author's thoughts are all prompted by the desire for genuineness and sincerity which colours the behaviour of the author in relation to his work. So lofty and so altruistic a conside-

ration, however, carries with it certain limits; the integrity of the work can hardly be made an argument against the minor changes to which the author is presumed to have given tacit consent, changes accounted for by the usages of the trade, or changes entailed by the chosen form of reproduction. Professor Ulmer aptly remarks that circumstances may even justify major alterations; in Germany the second World War totally or partially destroyed innumerable architectural works. If their place is taken by structures built from new plans, the first architect will not stand to lose, for his *droit moral* lapses with the destruction of the building; but if the building only needs a few repairs, or if it is planned to re-erect the building as it used to be, it will be necessary to respect the initial plans, but nevertheless to take considerations of economy or general aesthetics into account as well if the setting of the restored or rebuilt building is not quite the same as before the war.

Droit moral, therefore, is not sacrosanct, despite what the statements of principle may say; and for that matter it is not altogether non-transferable either, for all the theorists may say. Professor Ulmer agrees with Professor Troller and concedes that the *droit moral* will admit of certain acts of alienation; he considers that the basically French theory of the non-assignability of this right (cf. section 6 of the French Act of 1957) calls for a corrective. The writer shares this view. The author may wish to give a third party the job of safeguarding the non-pecuniary interests connected with his creative work. Why should such an arrangement, which though unusual is not in strict logic an absurdity, be forbidden or declared null and void? Or course, if the assignor later realises that he has tied his hands unduly, he ought to be allowed to assert his *droit moral* in order to be able to put matters to rights, in the eventuality that some important non-pecuniary interest is at stake. That seems a fair way of looking at the matter. The *droit moral* ought not to be a plaything for the author's vanity or frivolousness, nor should it be a stock-in-trade, comparable on a less naturalistic level to the charms of a tart. It is a suit of armour, and any use which turns it into an offensive weapon distorts its true purpose. Both Ulmer and Troller contribute to putting it in its proper perspective, and they deserve our gratitude.

Professor Ulmer has a special chapter on rights ancillary to copyright, numbering among them not only the rights of performers, producers of phonograms and broadcasting organisations, which are in the news at the moment, but also the rights in industrial designs and models and the rights in photographs. It is welcome to see designs and models placed close to literary and artistic works; they are by their very nature creations of form, and hence are alien to technology despite the procedure for securing protection (official registration), which likens them to inventions. Photographs, on the other hand, imply the action of chemico-physical factors, though this does not exclude the personal and artistic influence of the photographer. It was a happy idea to relate them to literary and artistic works, but to avoid putting them on exactly the same footing.

The three categories mentioned above are not on the same footing either. The phonogram producers (or record manufacturers, as they used to be called) and the broadcasting organisations operate on the frontiers of industry, and are eligible for protection under the law on unfair competition. This might suffice in theory, but in practice rather more specific provisions would probably be needed. The performers are much closer to the authors; Professor Ulmer grants them creative skills, but sets these skills on the level of interpretation, which is not on the same plane as authorship. The learned professor is not so hard as the *Intergu* (Internationale Gesellschaft für Urheberrecht E.V.) on the German Act and the authorship status it grants to performers within debatable but still fairly strict limits. However, the revision of the law on copyright is, in his view, an opportunity to think the problem out anew, and he sets about it in much the same way as the solution proposed by the Ministry of Justice in the 1959 *Entwurf*. The performer's rendering, says Ulmer, is not a work of the intellect, but one should be careful not to regard it as just another product of industry. The intermediate position of this skilled work, in view of the talent brought to bear upon it, implies as a matter of legislative policy the grant of the protection which the Germans term " Leistungsschutz ", an expression which is not easy to translate and which covers the rights attaching to (or to be vested hereafter in) the rendering of some particular service.

It seems that this solution is gaining ground. As a matter of fact, once it is intended (and very properly so) to set the work of the performer on a higher level than that of an industrial worker of the ordinary sort, one is forced in the nature of things to resort to a system of protection patterned on copyright or, to be more accurate, on invisible property rights. We do not find this shocking, because there is not such a wide gap after all between the author and the performer when both are worthy representatives of their professions. I expect to be told that, though narrow, the gap is nevertheless unbridgeable, because the two claimants for protection apply their faculties to subjects that do not lend themselves to comparison. This is the opinion most widely held at present, and one which the Swiss Federal Court has fortified with its authority in a judgment of 8th December 1959, which, incidentally, marks a turning-point in the practice of the courts (see *EBU Review*, No. 60 B, March 1960). For all that, I am not altogether convinced. But my personal opinion is of no consequence, and the fact that the practical means of providing protection are the same for authors and for performers considerably lessens the significance of the difference in nature found by the legal writers and the general run of the courts as between literary and artistic creation and performance. It will always be possible to give the authors priority or indeed pre-eminence by granting them exclusive or property

rights to a greater degree than to the performers, i.e. the absolute power to authorise or to restrain the use desired by the user. Moreover, such protection need not necessarily accrue to both categories of beneficiaries for a like period of time.

It is probable that a *Leistungsschutzrecht* or ancillary right will likewise be given to film makers. Professor Ulmer was in favour of this even when the 1954 *Referentenentwürfe* were being drafted; he had even suggested giving the film maker a fictitious copyright, an idea that did not much appeal to the interests consulted. What will become of the ancillary right that is now envisaged? If it is decided to vest such a right in the manufacturer of records or recorded tapes, there would be little justification for withholding it from the impresario who brings together all the contributors to a motion picture. But is there such a lot wrong with the present position, based as it is on the principle that the authors of a film are those who make a creative contribution to the finished work? The new principle is indeed elementary, not to say tautological; on the other hand, it has the advantage of being adaptable to all the innumerable special cases that are met with in motion pictures. A person who selects copyright or non-copyright works and embodies them in an organic whole acquires a copyright in that whole. Why should the film maker not be given the same treatment in certain circumstances? The discussion on the German *Ministerialentwurf* of 1959 may perhaps throw some additional light on this point, which we now see as through a glass, darkly.

Professor Ulmer's work, in its revised and enlarged version, has appeared at a psychological moment. Though centred on the *lex lata* it opens up a wide vista of the *lex ferenda*. The author's learning and his gift of exposition are complementary and mutually supporting; the result is a work that is at once substantial and brilliant, and the bemused and enlightened reader hails it for what it is—a masterly contribution to both law and letters.

B. M.

EBU Activities

Fifteenth meeting of the Bureau of the Programme Committee

Under the chairmanship of Mr. Marcel Bezençon, assisted by the two Vice-Chairmen, Mr. C. McGivern and Mr. Jean d'Arcy, and the Director of the Administrative Office, Secretary to the Committee, the Bureau of the Programme Committee held its 15th meeting on 28th and 29th April in Amsterdam at the kind invitation of Mr. Rengelink, Director of the NTS.

As usual, this session had been preceded by meetings of Working Parties GTV/1, presided over by Mr. S. Pugliese, and GTV/2, presided over by Mr. J. d'Arcy. The agendas were extremely full and attendance at the meetings beat all previous records. Simultaneous interpretation which had been introduced on a trial basis enabled precious time to be gained.

The Bureau sat in full force and several members had asked to be allowed to attend the meetings as observers. Mr. Bezençon put forward the question of the sharing of costs for Eurovision programmes as well as the plans for organising the work of the Programme Committee and the Draft Regulations of the Committee which were to take into account the provisions adopted at the time of the revision of the Statutes at the 3rd Extraordinary General Assembly in Lisbon.

The Bureau of the Programme Committee listened to the reading of a communication from Mr. Henri Dieuzeide, director of the audio-visual laboratory at the Institut Pédagogique National, concerning educational television and the OEEC project relating to the use of television in teaching.

The relations with the OIRT and Intervision were reviewed in relation to the report drawn up at the joint meeting of the EBU and OIRT, held at the beginning of February in Geneva (*EBU Review*, No. 60 B, page 6).

The Bureau noted with interest the publication of special numbers of the *EBU Review* devoted to television design, and projects for the organisation of training courses for stage producers to be held in Paris in November or December 1960.

With regard to relations with the organisers of artistic and cultural events on an international scale, the Bureau of the Programme Committee heard of the success of the 1960 Eurovision Song Contest (*EBU Review*, No. 61 B, page 37) held in London on 29th March 1960. It received additional information concerning the organisation of the 1960 Eurovision Grand Prix of Television Films, the Prix Italia, projects for cooperation with authors under the heading " The largest theatre in the world ", and other broadcasts of an international nature.

As regards relations with the organisers of sporting events, the Bureau of the Programme Committee analysed the results of the transmission of the winter Olympic Games from Squaw Valley over the Eurovision network, and was informed of the state of the negotiations with CONI concerning the Rome Olympic Games. It was proposed that a Eurovision athletics competition should be held in Berlin in 1961.

The Sub-Group for exchanges of newsfilm, presided over by Mr. J. W. Rengelink, at its meeting of 22nd April in Hilversum put forward recommendations which gave rise to an interesting exchange of views within the Bureau, and it can be stated that there will be a wider development in the exchange of newsfilm over the Eurovision network.

The Bureau of the Programme Committee also studied the participation of the Union in the work of the International Film and Television Council, European industrial broadcasts, the decentralised production of documentary films *(High Places of the Mind, Scientific Curiosities, Folk Music Round the World, Town Planning and Architecture)* and the project concerning *The Cinema in the World.* It also recommended a meeting of specialists on agricultural programmes and editors of newsfilm services.

Finally, questions arising from the development of sound broadcasting were discussed by Mr. O. Rydbeck, and the Bureau recommended that the Administrative Office should be informed of possibilities as regards exchanges and training courses for programme staff among the members of the EBU.

The next plenary session of the Programme Committee and the 16th Meeting of the Bureau of the Committee will be held from 26th September to 3rd October in Trieste, before the Prix Italia, at the kind invitation of the RAI.

Meeting of Audience Research Specialists

The Audience Research specialists of the member organisations of the EBU met at the Union headquarters in Geneva on 13th and 14th May. Mr. O. Rydbeck presided over the meeting, assisted by the Director of the Administrative Office. This working meeting, planned within the framework of the *ad hoc* Group for the Study of the Development of Sound Broadcasting, was of great interest and enjoyed considerable success. Our members will receive a copy of the report and proposals.

1960 Eurovision
Grand prix of Television Films, Cannes

This event, which is held under the auspices of the European Broadcasting Union and the patronage of the International Film and Television Council, took place during the XIIIth International Film Festival in Cannes from 13th to 18th May 1960.

The international jury was composed of nine members, four of whom were chosen by the EBU, three by the Administrative Council and two by the IFTC. Mr. C. Rim was elected president of the jury and the presentation of the films was carried out by the RTF.

More than twenty films were submitted for this Grand Prix, which was a great success. Our members will receive a list of the winning films together with useful information on the films shown.

Twenty-second meeting of the Administrative Council

The EBU Administrative Council, accepting the kind invitation of the Österreichischer Rundfunk and Dr. Karl Cejka, met in Vienna on 27th, 28th and 30th May under the chairmanship of the President of the EBU, Sir Ian Jacob. The agenda was a very full one and a further report of this meeting will be given in the next number of the *EBU Review*.

Fifteenth meeting of the Bureau of the Programme Committee, Amsterdam, 28th-29th April 1960

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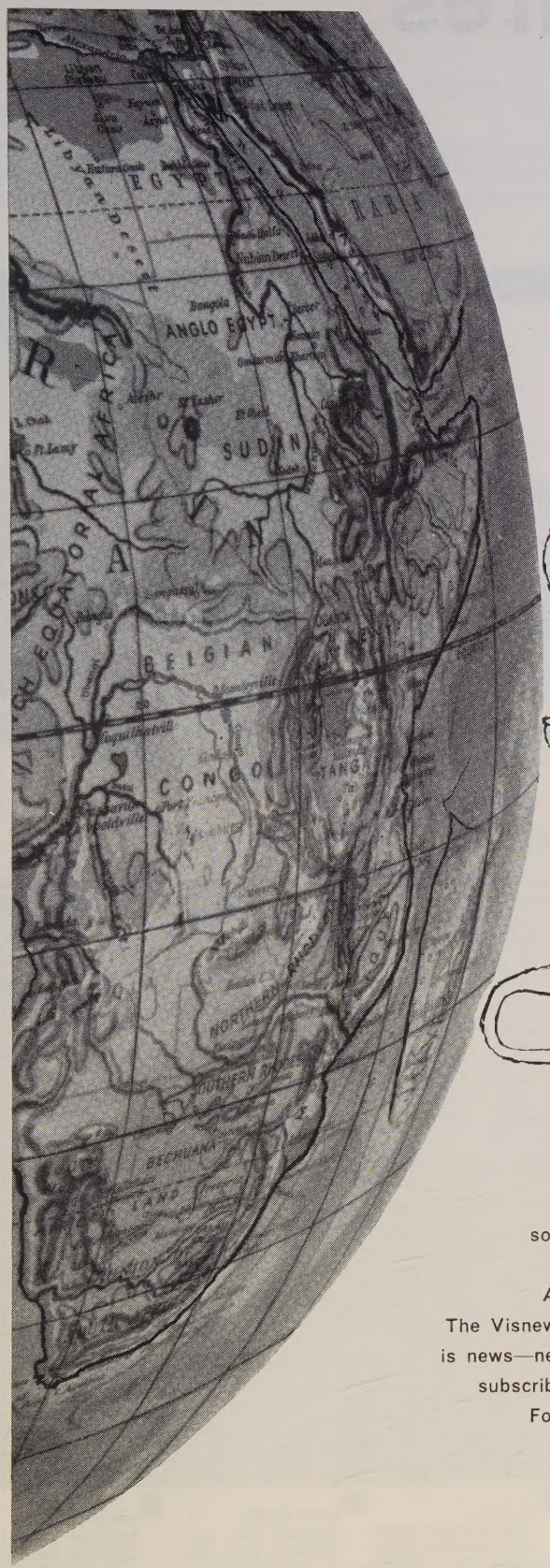

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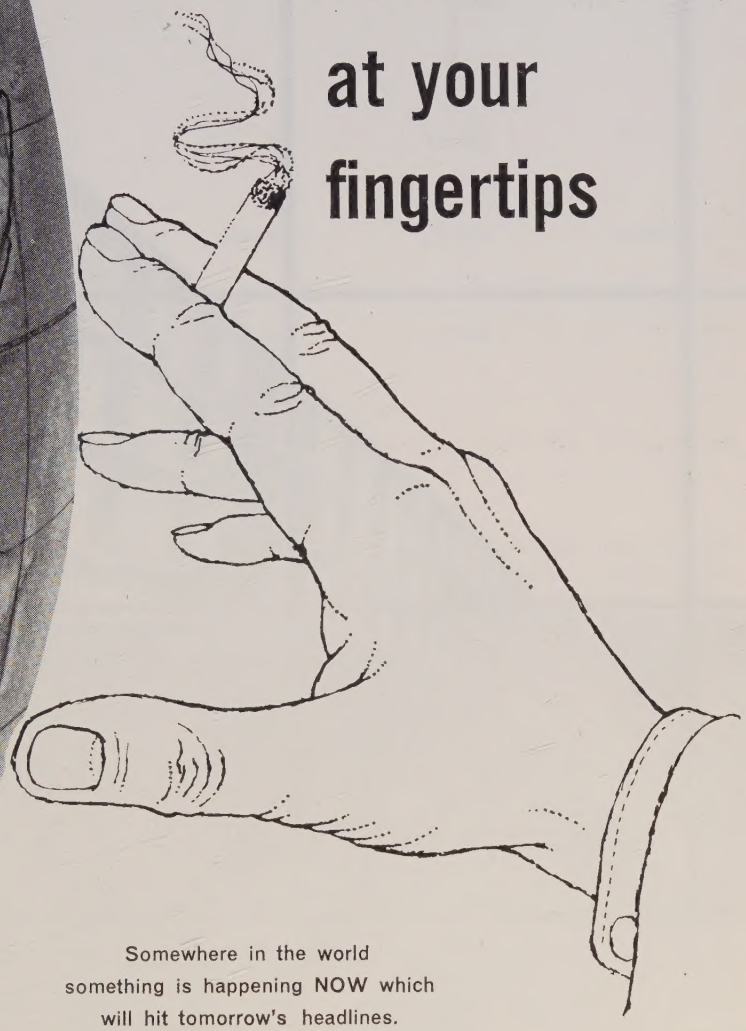

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